

ARTICLE 1. | DEFINITIONS

In these general terms and conditions the following terms have the following meaning, also those that are applied in the plural or singular, insofar as this does not ensue otherwise from the nature or meaning and purport of the clauses.

1. Profenco: Profenco energy & process technology B.V., the user of these general terms and conditions, established at Beemdstraat 1, 5653 MA in Eindhoven, registered in the Commercial Register of the Chamber of Commerce under number 17244412.
2. Other party: every natural person or legal entity with whom/which Profenco has concluded or intends to conclude an agreement.
3. Parties: Profenco and the other party jointly.
4. Agreement: every agreement that has come into effect between Profenco and the other party whereby Profenco has undertaken towards the other party to provide services and/or the sale and delivery of products.
5. Services/provision of services/work: the services to be provided and/or the work to be executed in the context of the agreement by or on behalf of Profenco, which can include but is not limited to and which is in the broadest sense of the word: consultancy, project management, engineering, installation work and/or conducting energy research.
6. Products: the goods to be delivered to the other party by or on behalf of Profenco in the context of the agreement, regardless of whether these are sold separately, or as the case may be installed or otherwise processed related to the execution of work by or on behalf of Profenco.
7. In writing: communication in writing, communication by email or by any other means of communication, which can be considered to be equivalent thereto in view of the state of the art and generally accepted applicable standards.

ARTICLE 2. | GENERAL PROVISIONS

1. These general terms and conditions apply to every offer from Profenco and every agreement that has come into effect.
2. These general terms and conditions also apply to agreements for the performance of which Profenco must involve third parties.
3. The applicability of any general terms and conditions of the other party, under any description whatsoever, is expressly rejected.
4. Derogation from these general terms and conditions can exclusively take place expressly and in writing. If and insofar as that which parties have expressly agreed in writing, for example by means of an offer or confirmation of the assignment from Profenco, derogates from the provisions of these general terms and conditions, that which parties have expressly agreed in writing will apply.
5. The annulment or voidness of one or more of the provisions of these general terms and conditions, or the agreement, will not affect the validity of the other clauses. Parties will be obliged as and when necessary to enter into mutual consultations in order to make arrangements for a replacement with regard to the affected clause. The objective and purport of the original provision will be taken as much as possible into consideration thereby.

ARTICLE 3. | OFFER AND COMING INTO EFFECT OF AGREEMENTS

1. Every offer from Profenco (also including its offers) is without obligation, also in the event that a period for acceptance is set out therein. Profenco can still withdraw its offer promptly, or at least as soon as possible, after the acceptance thereof by the other party.
2. The other party cannot derive any rights from an offer from Profenco that contains an apparent error or mistake.
3. Furthermore, the other party cannot derive any rights from an offer from Profenco that is based on incorrect or incomplete data provided by the other party.
4. Every agreement will come into effect by means of offer and acceptance, without prejudice to the provisions of subclause 1. If by the acceptance by the other party derogates from the offer made by Profenco, the agreement will not come into effect in accordance with this derogating acceptance, unless Profenco states otherwise.
5. If the other party concludes the agreement (also) on behalf of another natural person or legal entity, the other party states by means of entering into of the agreement that it is authorised for this purpose. The other party is, in addition to this natural person or legal entity, jointly and severally liable for the fulfilment of the obligations under this agreement.

ARTICLE 4. | THIRD PARTIES

1. If and insofar as the proper performance of the agreement requires this in the opinion of Profenco, Profenco will be entitled to have the agreement performed, wholly or in part, by independent auxiliary persons who are not employed by Profenco, i.e. by third parties. The applicability of Book 7, articles 404, 407 paragraph 2, and 409 of the Dutch Civil Code is excluded.
2. Profenco guarantees the required expertise of the third parties as referred to in the previous subclause. Except insofar as mandatory law prevents this, having regard to all circumstances of the case, Profenco nevertheless will not be liable for errors or shortcomings on the part of any third party involved by it during the performance of the agreement.
3. It is possible that the third parties who are engaged by Profenco in connection with the performance of the agreement wish to limit their liability with regard to this. Profenco assumes, and if necessary stipulates hereby, that the agreement concluded with it entails the entitlement to accept such limitation of liability also on behalf of the other party.
4. These general terms and conditions are also stipulated for the benefit of any third parties involved by Profenco for the performance of the agreement. Insofar as the right to compliance with the clauses cannot exclusively accrue to Profenco by their nature or meaning and purport, these third parties therefore can rely towards the other party on the provisions of these general terms and conditions as if they personally were party to the agreement instead of Profenco.
5. Profenco never accepts any liability for damage as a result of errors or shortcomings on the part of parties that the other party has involved for the performance of the agreement, or that are present on the other party's account during the actual execution of the provision of service.

ARTICLE 5. | OBLIGATIONS OF THE OTHER PARTY IN GENERAL

The other party guarantees that it will provide Profenco with all information that is reasonably relevant for the set-up and performance of the agreement, completely, in a timely manner, and in any manner prescribed by Profenco for this purpose. The other party guarantees the accuracy of this information.

Furthermore, the other party must always provide all cooperation required for the performance of the agreement. The other party will take all reasonable measures for optimising the performance of the agreement.

ARTICLE 6. | PERIODS

1. All execution periods and/or completion periods/delivery periods, which Profenco has undertaken towards the other party, are indicative and not final deadlines. Profenco may also be dependent of the other party or third parties for meeting these periods. If the late performance is the result of a circumstance that cannot be attributed to Profenco, or force majeure within the meaning of article 14 of these general terms and conditions, the obligations on the part of Profenco will be suspended for the duration of the force majeure situation. The other provisions of article 14 will apply mutatis mutandis in such an event.
2. If the late performance is the result of a circumstance that can be attributed to Profenco, the default on the part of Profenco will not commence any earlier than after the other party has given notice of default in writing to Profenco, which notice of default will set out a reasonable period for performance, and Profenco is still in default of the performance after the expiry of the last-mentioned period.
3. If, for the performance of the agreement, Profenco is dependent on data to be provided by the other party or efforts to be made otherwise by the other party, and this data is not provided in good time, or these efforts are not made in a timely manner, Profenco will be entitled to suspend performance or completion/delivery for the duration of the delay.
8. Default on the part of Profenco as a result of a circumstance attributable to Profenco, all this as referred to in subclause 2, will provide the other party with the right to termination of the part of the agreement that the default relates to, but never with the right to additional compensation.

ARTICLE 7. | AMENDMENT OF THE AGREEMENT AND CONTRACT EXTRAS

1. If it appears that it is necessary for the proper continuation and/or completion thereof to amend the agreement concerning its nature and/or scope (also including an addendum to the agreement), parties will in a timely manner and in mutual consultation proceed with adjustment of the agreement, which may have consequences for that which was originally agreed. The price owed by the other party to Profenco may increase or decrease due to this. In the event of a fixed contract price, Profenco will as much as possible provide a quotation for this in advance.
2. In the event of addendums or amendments to the agreement required by the other party, the extra costs related thereto will be borne by the other party. Profenco will inform the other party in a timely manner regarding the necessity of charging on the costs referred to here, unless the other party should have understood this necessity of its own accord.
3. If after the concluding of the agreement, cost price-increasing circumstances occur, or appear, which can be attributed to the other party on the basis of incorrect data provided by it, the extra costs will be borne by the other party, unless Profenco ought to have discovered the inaccuracy of the data provided by the other party prior to determining the price. Profenco will inform the other party in a timely manner regarding the necessity of charging on the costs referred to here.
4. An amendment to the agreement can change the originally stated execution, completion and delivery periods. The other party accepts the possibility of amending the agreement, including the change of the price and the execution, completion and delivery period. If the agreement is amended, Profenco will be entitled to only implement this after the other party has agreed in writing to the adjusted price and other terms and conditions, including the time to be determined on which or the time period to be determined during which (further) performance of the agreement will be executed.
5. Without becoming in default due to this, Profenco can refuse a request from the other party for amending the agreement, if the performance of the agreement to be amended cannot in all reasonableness be expected from Profenco.

ARTICLE 8. | PROVISION OF SERVICES AND COMPLAINTS

1. In the event of provision of services (in the course of which no work of a tangible nature is executed and delivered by or on behalf of Profenco, but there is an agreement for services within the meaning of Book 7, article 400 et seq. of the Dutch Civil Code, as in the case of consultancy and energy research) this article will apply without prejudice to the other provisions of these general terms and conditions.
2. Profenco will provide the services to the best of its knowledge and abilities and in accordance with the requirements of good workmanship. Insofar as the nature or purport of the services do not mandatorily prevent this, Profenco exclusively undertakes an obligation to use best endeavours, without being able to guarantee the achievement of the results that the other party envisaged at the entering into of the agreement.
3. Any complaints regarding the provision of service by Profenco must be made known to Profenco verbally promptly after the other party noticed, or at least reasonably could have noticed, the shortcoming assumed by it, and thereupon the other party must confirm this in writing to Profenco within two working days. If the other party does not submit a complaint in a timely manner, no obligation whatsoever will ensue for Profenco from such a complaint.

ARTICLE 9. | PROVISION OF SERVICES AT THE OTHER PARTY'S LOCATION

1. If, as in the event of consultancy or installation work, the agreement is performed at the other party's location, or another location designated by it and agreed between parties, this article will apply without prejudice to the other provisions of these general terms and conditions.
2. The other party will be responsible for ensuring the correct execution in a timely manner of all lay-outs, facilities, and other conditions that are necessary for the proper performance of the agreement. The other party must in particular ensure that:
 - the persons employed by Profenco will acquire access to the place of execution at the agreed time and that they can provide the services, or can execute the work during the usual working hours;
 - the place of execution is suitable for the provision of services and/or the execution of the work, as well as the lay-out of all matters possibly required for the performance of the agreement;
 - all safety measures and precautionary measures have been taken and will be maintained during the execution of the work or provision of the service.

3. The persons employed by Profenco must be able to use free of charge the power network and all other matters and facilities required by them in all reasonableness at the location of the execution.
4. Unless expressly agreed otherwise, the other party guarantees the acquisition in a timely manner of any required permits and/or decisions from authorities and any approvals from other third parties. The other party indemnifies Profenco against all claims (by third parties) due to the absence thereof.
5. The other party will bear the risk of and the liability for damage related to loss of, theft of and damage to goods of Profenco, of the other party itself, and of third parties, such as tools, materials and equipment used or processed in connection with the work, which are situated at the place of the execution of the work, unless the damage has arisen as a result of intent or wilful recklessness on the part of Profenco.
6. The other party will be obliged to take out adequate insurance for the risks as referred to in the previous subclause. Upon first request, the other party must provide Profenco with a copy of the insurance(s) concerned and proof of payment of the premium for inspection. In the event of damage, the other party will be obliged to immediately report this to the insurer concerned in order to enable the insurer to process the further handling and settlement of the damage.
7. If employees of or managers within the organisation of the other party, or as the case may be third parties engaged by the other party during the performance of the agreement, are involved, the other party guarantees that these persons will be made available to Profenco in a timely manner and that they will provide full cooperation in order to make the proper performance of the agreement by Profenco possible.
8. If the other party fails in the fulfilment of its obligations as referred to in the previous subclauses of this article, or as the case may be the provisions of article 5, Profenco will not be liable for any damage arisen due to this and, without prejudice to the other provisions of these general terms and conditions, Profenco will be entitled to suspend the performance of the agreement and to charge any periods of delay/waiting hours and/or any other damage to the other party.

ARTICLE 10. | SOME SPECIAL PROVISIONS CONCERNING PROJECT MANAGEMENT

1. Unless expressly agreed otherwise in writing, in the context of project management the other party provides Profenco with the authority to:
 - represent the other party in all matters concerning the execution of the project, insofar as the implementation agreements concluded between the other party and the implementing parties do not prevent this. This will not affect the authority of Profenco to immediately take measures concerning which Profenco has not been able to consult or has not been able to consult the other party in a timely manner, having regard to the other relevant circumstances;
 - give orders and instructions with regard to the execution of the project.
2. The other party declares that it will not conduct supervision of, or manage or give instructions to the persons and/or specialists made available by Profenco in the projects accepted by Profenco. These projects will be entirely executed under the management and supervision by Profenco, or as the case may be by third parties designated by Profenco.

ARTICLE 11. | DURATION, TERMINATION, AND INTERIM CANCELLATION OF AGREEMENTS

1. The agreement will terminate by means of the completion of the agreed performance delivered by or on behalf of Profenco, unless it ensues from the nature or the purport of the agreement that parties have undertaken towards each other continuous, recurring, or successive goods and services (hereinafter referred to as: the continuing performance contract).
2. Unless a specific duration has been agreed expressly and in writing, a continuing performance contract will be deemed to have been entered into for an indefinite period. A continuing performance contract will terminate by means of notice of termination with due observance of a notice period of one month, or as the case may be as much shorter or longer as expressly agreed in writing. Verbal notice will only come into effect after this has been confirmed in writing by the party giving notice of termination.
3. If the other party proceeds with interim cancellation of the agreement, Profenco will be entitled to claim compensation for of the lost profits that Profenco has incurred as a result thereof.
4. If the grounds that have resulted for the other party in cancellation of the agreement, result in an unreasonable application of the provisions of the previous subclause, the other party will be obliged in any event to compensate the expenses incurred by Profenco with regard to the preparation and the performance of the agreement, plus the fee of Profenco proportionately to the goods and services already provided until the cancellation.

ARTICLE 12. | DELIVERY OF PRODUCTS AND GUARANTEE

1. Delivery of products (whether or not combined with the installation or other types of processing thereof by or on behalf of Profenco) will take place at the agreed place and in the agreed manner.
2. Profenco will determine the manner of packaging and any delivery of the products.
3. Profenco retains the right to partial delivery of the orders.
4. In the event of exceeding the agreed delivery period, the other party will never be entitled to refuse to take receipt of the products and/or refuse to pay the agreed price and any delivery charges.
5. If the products cannot be delivered or cannot be delivered in a timely manner as a result of a circumstance that can be attributed to the other party, Profenco will be entitled to store the products at the other party's expense, without prejudice to the obligation on the part of the other party to pay the agreed price and any delivery charges.
6. In the event that the other party refuses to purchase the ordered products, or otherwise does not take receipt of the products, the other party will upon first request from Profenco inform Profenco within which period the products will still be purchased. This period will never be longer than two weeks after the day of the request as referred to in the previous sentence. Profenco will be entitled to terminate the agreement if the other party, after the expiry of the period referred to in the previous sentence, has still omitted to purchase the products, without prejudice to the obligation on the part of the other party to pay the agreed price and the reasonable costs incurred for the storage of the products.

7. If, by application of subclauses 5 or 6, Profenco incurs any other necessary costs, which would not be in existence if the other party had properly fulfilled its purchase obligation towards Profenco, all these costs will also be at the other party's expense.
8. At the time of the delivery, or at least promptly thereafter, the other party must check whether the nature and the quantity of the products correspond with the agreement. If in the opinion of the other party the nature and/or the quantity of the products does/do not correspond with the agreement, the other party must promptly inform Profenco of this.
9. The products are only delivered with a guarantee if and insofar as this has been expressly set out in writing by Profenco, and always provided that a guarantee will never apply to products that are subject to wear and tear.
10. Without prejudice to any guarantee conditions expressly agreed in writing, any applicable guarantee will lapse in any event if a defect of the product is the result of an external cause, or can otherwise not be attributed to Profenco or as the case may be its suppliers. This includes, but is not limited to, defects as a result of damage, natural wear and tear, loss or damage resulting from wilful damage, incorrect or improper treatment, incorrect or improper use, use in conflict with the instructions for use or other instructions from or on behalf of Profenco, the failure to skilfully and regularly maintain (have maintained) the products and the making of changes to the products.
11. The other party can only rely on any guarantee if the other party has fulfilled all its payment obligations ensuing from the agreement.
12. In the event of a valid guarantee claim of the other party, it will only lay claim to repair or replacement of the delivery, at the discretion of Profenco or as the case may be its supplier. For Profenco, repair or replacement will apply as compensation in full.

ARTICLE 13. | COMPLETION OF WORK AND SHORTCOMINGS

1. The work will be regarded as delivered if:
 - the other party has been informed of the completion of the work, or as the case may be it is reasonably apparent to both parties that the work has been completed;
 - the other party has approved the work;
 - the work is taken into use by the other party;
 - If Profenco has notified the other party in writing of the completion of the work and the other party has not made it known in writing within 14 days after the notification whether or not the work has been approved;
 - the other party has not approved the work on the basis of minor defects or absent parts, which can be repaired or delivered later within 30 days and which do not prevent the taking into use of the work.

If the other party does not approve the work, it will be obliged to make this known to Profenco in writing, stating reasons for this. In that case the other party must provide Profenco with the opportunity to still deliver the work.
2. The other party indemnifies Profenco against claims (by third parties) for damage to the parts of the work that have not been delivered caused by the putting into use of parts of the work that have already been delivered.
3. If with regard to the delivered work there is an attributable failure on the part of Profenco in the fulfilment of its obligations under the agreement, Profenco will at its discretion still execute the work properly, or as the case may be credit the other party for a pro rata part of the invoice. If Profenco chooses to still execute the work properly, Profenco will itself determine the manner and the time of the execution thereof. An attributable failure as referred to in the first sentence must be taken to mean a failure that a properly and carefully acting colleague can and ought to avoid, all this with due regard to the usual attention and the professional knowledge and resources required for the performance of the agreement.
4. In all events, the other party must provide Profenco with the opportunity to remedy any failure on the part of Profenco.
5. The other party can no longer rely on a failure on the part of Profenco if the other party has not complained about this in writing to Profenco within fourteen days after it discovered or reasonably ought to have discovered the failure. If the other party does not complain in good time, no obligation whatsoever will ensue for Profenco from such a complaint from the other party.

ARTICLE 14. | FORCE MAJEURE

1. Profenco will not be obliged to fulfil any obligation under the agreement if and for as long as Profenco is prevented from doing this by a circumstance, which Profenco is not accountable for pursuant to the law, a legal act, or according to generally accepted standards.
2. If and insofar as the force majeure situation makes the performance of the agreement permanently impossible, parties will be entitled to terminate the agreement with immediate effect.
3. If at the occurrence of the force majeure Profenco has already fulfilled its obligations partially, or could still only fulfil its obligations partially, Profenco will be entitled to separately invoice for the part already executed, or for the parts of the agreement that can still be executed, as if there was an independent agreement.
4. Damage as a result of force majeure will never be eligible for compensation, without prejudice to the application of the previous subclause.

ARTICLE 15. | SUSPENSION AND TERMINATION

1. If the circumstances of the case reasonably justify this, Profenco will be entitled to suspend the performance of the agreement, or to terminate the agreement, wholly or in part, with immediate effect, if and insofar as the other party does not, does not in a timely manner, or does not completely fulfil its obligations under the agreement, or as the case may be if after the concluding of the agreement circumstances come to the knowledge of Profenco, which provide good grounds to fear that the other party will not fulfil its obligations. If the fulfilment of the obligations on the part of the other party, of which the other party is in breach or in pending breach, is permanently impossible, the entitlement of termination will only arise after the other party has been given notice of default in writing by Profenco, which notice of default will set out a reasonable period during which the other party can (still) fulfil its obligations and the fulfilment thereof was still not forthcoming after the expiry of the last-mentioned period.
2. If the other party puts its enterprise into liquidation, or transfers it to a third party, is declared bankrupt, has applied for (provisional) moratorium, any attachment is levied on its goods, as well as in the case in which the other party cannot freely dispose of its assets otherwise, Profenco will be entitled to terminate the agreement with immediate effect, unless the other party has

- already provided sufficient security for the fulfilment of its payment obligations.
3. Furthermore, Profenco will be entitled to terminate the agreement if circumstances occur which are of such a nature that performance of the agreement or unaltered maintenance thereof cannot reasonably be required from Profenco.
 4. The other party will never lay claim to any form of compensation related to the right of suspension or right of termination exercised by Profenco on the basis of this article, always provided that if the circumstances that have resulted in the termination of the agreement reasonably form part of Profenco's risk, the other party will at the most lay claim to remission of the price in proportion to the part of the agreement that has not been executed or delivered as a result of the termination.
 5. Insofar as this can be attributed to it, the other party will be obliged to compensate the damage suffered by Profenco as a result of the suspension or termination of the agreement.
 6. If Profenco terminates the agreement on the basis of this article, all claims against the other party will be immediately due and payable.
 7. The termination as referred to in this article will take place on the basis of an extrajudicial declaration in writing addressed to the other party.

ARTICLE 16. | PRICES, COSTS & PAYMENTS

1. All prices and costs set out by Profenco and owed by the other party to Profenco are excluding VAT and any other levies imposed by authorities.
2. If and insofar as the services or work are/is offered on the basis of subsequent calculation, the stated prices and costs will only serve as a guide price. In that case, the hours actually worked by or on behalf of Profenco, as well as the costs actually incurred by or on behalf of Profenco will be charged on to the other party on the basis of subsequent calculation.
3. Except to the extent that any payment terms expressly agreed in writing derogate from this, Profenco will be entitled to claim, wholly or in part, an advance payment or an interim payment.
4. Profenco will not be obliged to (further) perform the agreement any earlier than after the other party has fulfilled all the payment obligations towards Profenco that are vested in the other party and that are already due and payable. In accordance with the provisions of article 15, Profenco will therefore be entitled, in the event of payment default on the part of the other party, to suspend the performance of the agreement until the other party has remedied its payment default.
5. Payments must be made by means of bank transfer within 30 days after the invoice date, without any reliance on suspension or set-off.
6. The other party must make complaints regarding the amount(s) of the invoice(s) known to Profenco in writing, stating reasons, within seven days after the invoice date, in the absence of which the accuracy of the invoice amount will be considered to have been established.
7. Profenco will be entitled to make the invoices addressed to the other party exclusively available to the other party by email.
8. If the other party puts its enterprise into liquidation, or transfers it to a third party, is declared bankrupt, has applied for (provisional) moratorium, any attachment is levied on its goods, or the other party cannot freely dispose of its assets, the claims against the other party will be immediately due and payable.
9. If payment in a timely manner is not forthcoming, the default of the other party will occur by operation of law. From the day on which the default of the other party occurs, the other party will owe an interest of 2% per month over the outstanding amount, whereby a part of a month will be regarded as a full month.
10. All reasonable costs, such as judicial, extrajudicial and enforcement costs, incurred to obtain payment of the amounts owed by the other party, will be borne by the other party.

ARTICLE 17. | LIABILITY AND INDEMNITY

6. The other party will bear the damage caused by inaccuracy or incompleteness of the information made available by the other party, directly or indirectly, for the performance of the agreement, by defects of or unsuitability of the other party's goods on which work is executed, unless Profenco was aware of these defects or unsuitability, by defects or unsuitability of any equipment or auxiliary materials that the other party has made available for the purpose of the performance of the agreement, by every other failure in the fulfilment of the obligations on the part of the other party ensuing from the law or the agreement, as well as any other circumstance that cannot be attributed to Profenco.
7. Profenco will never be liable for indirect loss, also including lost profits, loss suffered, loss caused by business interruption and loss of production. The other party may take out insurance for this damage. Furthermore, Profenco will not be liable for damage to property in the care, custody or control of, but not owned by, the insured party. Damage to property in the care, custody or control of, but not owned by, the insured party is *inter alia* taken to mean damage caused by or during the performance of the agreement to goods that work is executed on or to goods that are situated in the vicinity of the location where work is executed. The other party may take out insurance for this damage.
8. Without prejudice to the provisions of article 4, Profenco will never be liable for damage caused by intent or wilful recklessness on the part of third parties that Profenco has involved for the performance of the agreement, nor for damage caused by intent or wilful recklessness on the part of non-managerial employees of Profenco.
9. Without prejudice to the other provisions of these general terms and conditions, and in particular the provisions of subclauses 6 and 7 of this article, Profenco will only be liable towards the other party for direct damage or loss suffered by the other party as a result of an attributable failure on the part of Profenco in the fulfilment of its obligations under the agreement. An attributable failure must be taken to mean a failure that a properly and carefully acting colleague can and ought to avoid, all this with due observance of the usual attention and the professional knowledge and resources required for the performance of the agreement. Direct damage is exclusively taken to mean:
 - the reasonable costs for establishing the cause and extent of the damage, insofar as the establishing is related to damage that is eligible for compensation within the meaning of these general terms and conditions;
 - any reasonable costs incurred to make the defective performance of Profenco correspond to the agreement, insofar as this can be attributed to Profenco;

- reasonable costs, incurred for the prevention or limitation of damage, insofar as the other party demonstrates that these costs have resulted in limitation of direct damage within the meaning of these general terms and conditions.
10. If Profenco is liable for any damage, Profenco will at any time have the right to repair this damage. The other party must provide Profenco with the opportunity to do so, in the absence of which all liability with regard to this on the part of Profenco will lapse.
 11. Any liability on the part of Profenco is limited to the damage for which Profenco is insured on the basis of the insurance taken out by or on behalf of Profenco, but will never amount to more than the amount that is actually paid under this insurance in the case concerned.
 12. If, for any reason whatsoever, Profenco cannot rely on the provisions of the previous subclause, the liability on the part of Profenco will be limited to no more than 15% of the invoice amount of the agreement (excluding VAT).
 13. The time limit for all causes of action against Profenco is one year.
 14. The other party indemnifies Profenco against any claims by third parties who in connection with the performance of the agreement suffer damage and the cause of which is attributable to a party/parties other than Profenco. If claims are made by third parties against Profenco on that basis, the other party will be obliged to assist Profenco at law and otherwise and to promptly do all that which can be reasonably expected of it in that case. If the other party fails to take adequate measures, Profenco will be entitled to proceed thereto itself, without any notice of default. All costs and damage on the part of Profenco and third parties arisen through this will be fully at the other party's expense and risk.

ARTICLE 18. | RETENTION OF TITLE

1. The ownership of all products sold by Profenco to the other party only transfers to the other party when the other party has fulfilled all of its obligations under the agreement.
2. The other party is prohibited from selling, pledging, or in any other manner encumbering the products that are subject to retention of title.
3. If third parties levy attachment on the products that are subject to retention of title, or as the case may be want to establish or enforce rights thereto, the other party will be obliged to inform Profenco of this as soon as possible.
4. The other party provides unconditional permission to Profenco, or to third parties designated by Profenco, to enter all locations where the products that are subject to retention of title are situated. In the event of default on the part of the other party, they will be entitled to repossess the products referred to here. All reasonable costs related thereto will be borne by the other party.
5. If the other party, after the products have been delivered to it by or on behalf of Profenco, has fulfilled its obligations, the retention of title will be revived with regard to these products if the other party does not fulfil its obligations under an agreement that was concluded later.
6. If Profenco cannot rely on its retention of title because the delivered products have been accepted, the other party will be obliged to pledge the newly constituted goods to Profenco.

ARTICLE 19. | INTELLECTUAL AND INDUSTRIAL PROPERTY

1. Profenco retains all intellectual and industrial property rights to the advice, designs, sketches, drawings, research results, and other goods provided by it to the other party, which are protected by intellectual or industrial property by operation of law. Profenco has the exclusive right to disclosure, implementation, and reproduction of these goods. The right of use thereof exclusively accrues to the other party, with due observance of the rights ensuing from legislation in the field of intellectual and industrial property. This right of use is not transferable.
2. The other party is not permitted to create a reproduction of the whole or parts of work achieved in accordance with Profenco's design, without prior permission in writing from Profenco. Profenco will be entitled to attach conditions to this permission, including making a payment. The provisions of this subclause apply *mutatis mutandis* to goods produced in accordance with Profenco's design.
3. The other party is only entitled to have work achieved by a third party in accordance with Profenco's design, without Profenco's intervention and approval, if the agreement is terminated due to a failure that can be attributed to Profenco. In that event, Profenco will not be liable for defects insofar as these can be traced back to the execution by or on behalf of the other party.

ARTICLE 20. | CONCLUDING PROVISIONS

4. The law of the Netherlands exclusively applies to each agreement and all legal relationships between parties ensuing therefrom.
5. Parties will not apply to the court until after they have made best endeavours to resolve the dispute in mutual consultation.
6. The competent court within the district of the place of business of Profenco is exclusively designated to hear and determine any legal disputes.
7. If these general terms and conditions are available in several languages, the Dutch version thereof will always be the determining factor for the interpretation of the provisions included therein.