

GENERAL TERMS AND CONDITIONS OF SALE



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1. COMPANY DETAILS

BluBase B.V.
Registration number Dutch Commercial Register (Handelsregister): 56828462
VAT number: NL852320553B01

2. DEFINITIONS AND INTERPRETATION

In these Terms and Conditions, terms written with an initial capital have the meaning set out in Schedule 1 (Definitions) to these Terms and Conditions.

3. TOEPASSINGSGEBIED EN TOEPASSLIJKHEID

- 3.1** These Terms and Conditions apply to every Offer and Agreement, except to the extent expressly deviated therefrom in the Offer or Agreement. In the event of a conflict between the provisions in these Terms and Conditions and the provisions in an Offer or Agreement, the provisions in the Offer or Agreement will prevail. In the event of a conflict between the Warranty Conditions and the other provisions in these Terms and Conditions, the Warranty Conditions will prevail to the extent of such conflict.
- 3.2** The application to an Offer or Agreement of any general terms and conditions of procurement or other general terms and conditions used by a Customer (regardless of whether such terms and conditions are referenced in any purchase order, invoice, or in any correspondence between the Parties, or are implied by trade, custom, practice or course of dealing) is excluded unless such terms and conditions have expressly been accepted by Blubase in writing.
- 3.3** The Customer acknowledges and agrees that, in the context of each Offer and Agreement, the Customer is acting in the exercise of its profession or business, and not as a Consumer.
- 3.4** Blubase may change these Terms and Conditions at any time and shall use its reasonable efforts to notify the Customer thereof in a timely manner (which may include by way of a general notification through the Website). Any such changes shall apply to Offers and Agreements issued or concluded after the date such changes are stated to take effect. Any amendment to an Agreement after its conclusion shall require to be agreed in writing by the authorized representatives of each Party.

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3.5 Should any provision of these Terms and Conditions or of an Agreement be or become invalid or unenforceable in whole or in part, such shall not affect the validity and enforceability of the remaining provisions of these Terms and Conditions or the Agreement. The Parties shall in such event in good faith negotiate to promptly replace such invalid or unenforceable provision with a valid and enforceable provision, which insofar as possible reflects the original intent. A failure to exercise or delay in exercising a right or remedy provided under these Terms and Conditions, an Agreement, or applicable law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies, and no single or partial exercise of such a right or remedy prevents further exercise of the right or remedy or the exercise of another right or remedy.

4. OFFERS AND AGREEMENTS

4.1 Any Offer, even if it contains an acceptance period, is not binding upon Blubase until an Agreement has been concluded in accordance with these Terms and Conditions.

4.2 An Offer will automatically lapse if the Products comprised in the Offer are no longer available for purchase, and if the Offer is not accepted by the Customer within a period of 30 (thirty) days from the date the Offer was issued or such other acceptance period as is set out in the Offer.

4.3 The Customer is solely responsible for ensuring the completeness and correctness of all information provided by or on behalf of it to Blubase and acknowledges and agrees that Blubase may rely on such information in preparing any Offer or Agreement.

4.4 Without prejudice to Clause 4.3 and Clause 8, Blubase shall use its reasonable efforts to ensure that the information provided by it in an Offer is complete and correct, but shall not be bound to apparent errors in an Offer.

4.5 Blubase shall use its reasonable efforts to ensure that depictions of Products and general information on Products on its Website (including in brochures and product documentation made available by Blubase through its Website or otherwise) are accurate but shall not be liable for any variations of the actual Products provided from such depictions or information.

4.6 The Customer may submit written purchase orders for the provision of Products and shall, where applicable, use the form for such purchase orders prescribed by Blubase.

4.7 An Agreement is only concluded once the Customer has accepted an Offer in writing or has submitted a written purchase order for Products to Blubase, and (a) such acceptance or purchase order has been confirmed in writing by an authorized representative of Blubase, or (b) Blubase has demonstrably proceeded to perform the supply of Products under the Offer or purchase order.

4.8 The Customer may cancel or amend a purchase order prior to Blubase confirming such purchase order, by giving Blubase written notice of such cancellation or amendment. Any cancellation or amended after such time may be refused by Blubase, or, at Blubase's discretion, be accepted under the condition that the Customer compensates Blubase for the costs incurred.

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5. DELIVERY

- 5.1** Unless otherwise provided in an Agreement, Blubase shall deliver Products Ex Works (Incoterms 2020) in suitable packaging at such location as is notified by Blubase to the Customer in the Agreement or otherwise in writing. In the event that delivery by Blubase at a Customer location is agreed, Blubase shall, regardless of the Incoterms chosen and unless expressly agreed otherwise between the Parties in writing, be entitled to onward charge to the Customer all costs of export/import duties and transportation (including insurance during transport) incurred in delivering the Products.
- 5.2** Blubase is entitled to deliver the Products under an Agreement in parts and require payment of a partial delivery prior to proceeding to the subsequent partial delivery.
- 5.3** The risk of damages to or loss of the Products will pass to the Customer upon delivery in accordance with Clause 5.1. Legal title to Products will pass to the Customer only upon payment in full by the Customer of the purchase price due in respect of such Products, and until such time the respective Products are subject to the retention of title (eigendomsvoorbehoud) and the Customer (i) is obliged to ensure that the Products are not further processed or transferred, remain identifiable as deriving from Blubase, are traceable to the Agreement under which they were purchased, and are identified as the property of Blubase in the Customer's records and accounts, and (ii) shall provide Blubase all reasonable cooperation (including access to Customer controlled premises) to identify and reclaim the Products upon any default in payment for such Products by the Customer. In the event that Blubase cannot reclaim the Products due to specification (zaaksvorming), confusion (vermenging), accession (natrekking) or assignment (overdracht), the Customer shall be required to procure a pledge on the newly formed objects for the benefit of Blubase.
- 5.4** If a third party seizes the Products that are subject to the retention of title (eigendomsvoorbehoud) pursuant to Clause 5.3, or wishes to establish or enforce any rights with respect to such Products, the Customer shall be required to inform Blubase thereof immediately.
- 5.5** The Customer shall be responsible for accepting and signing transportation documents (proof of delivery) for Products delivered and for inspecting each delivery of Products by performing a check: (a) on the correctness of delivered Product types and models against the Agreement, (b) on the correctness of quantities delivered against the Agreement, and (c) of the Products against the Specifications.
- 5.6** The Customer shall notify Blubase of any apparent deficiencies resulting from the inspection conducted pursuant to Clause 5.5.4 within 2 (two) Business Days of delivery, thereby including reasonable evidence (e.g., photographs or video recordings) of the deficiencies. In the event that the Customer does not notify Blubase of deficiencies within the aforementioned timeframe, the Products delivered shall, without prejudice to Blubase's warranty obligations under the Agreement and these Terms and Conditions, be deemed accepted by the Customer. In case of a deficiency reported in accordance with this Clause 5.6, Blubase shall, insofar as it is responsible for such deficiency and subject to the Warranty Conditions, at its cost remedy the deficiency as soon as reasonably possible and practicable.

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5.7 The Customer shall compensate Blubase for all reasonable costs incurred by Blubase as a result of any failure by the Customer to take delivery of Products at the agreed time and location (including the costs of returning the Products). The Customer acknowledges and agrees that, unless otherwise agreed in writing between the Parties, Blubase shall in such aforementioned event and at its sole discretion store Products for a maximum period of 1 (one) month from the initially agreed delivery date at the Customer's cost and risk. After the aforementioned 1 (one) month period, Blubase may, without further notice to the Customer and without excusing Customer from its obligations under the Agreement, destroy, resell or otherwise dispose of the Products as it deems appropriate.

Delivered Products can only be returned to Blubase within 3 (three) months after date of the Blubase invoice pertaining to such products and only after written approval from Blubase, whereby Blubase shall specify the applicable requirements for a return shipment and the costs for return processing. Any costs for a return shipment shall be payable by the Customer unless the return is due to an error attributable to Blubase. Any Products for which returns are requested need to be in packaging that is unopened, full, and original.

6. TIMING AND DELAYS

6.1 Blubase shall use its reasonable efforts to deliver Products on the date agreed between the Parties in or pursuant to the Agreement, however, unless expressly agreed otherwise in writing between the Parties, (a) each such delivery date shall be deemed an estimated date and not a final date (fatale termijn), and (b) any failure to meet a delivery date shall not entitle the Customer to claim any compensation of damages or costs resulting from such delay.

Without prejudice to Clause 6.1, each Party shall, without undue delay upon becoming aware thereof, notify the other Party of any circumstances that causes or may cause a delay in the performance of its obligations under an Agreement.

7. PRICES AND PAYMENT

7.1 All prices for Products are stated in Euros on an Ex Works (Incoterms 2020) basis, and are payable in Euros. Insofar as the Parties have agreed that Blubase shall invoice amounts due in any other currency than Euros, the invoiced amounts shall be calculated in the relevant local currency using the exchange rate published by the European Central Bank at the date of invoicing.

7.2 All amounts payable pursuant to an Agreement are stated exclusive of any VAT, excise and export/import duties, and other taxes and levies, all of which (other than taxes levied on Blubase's income) are payable by the Customer unless expressly agreed otherwise in writing between the Parties. If any such taxes (other than reverse charge VAT) are properly chargeable on any provision of Products under an Agreement, the Customer shall pay to Blubase, in addition to the prices for the Products, an amount equal to the amount of the applicable taxes against delivery of an invoice that is appropriate and valid under the applicable tax rules. The Parties shall cooperate to minimise any VAT or other taxes and duties due in relation to an Agreement to the extent legally permitted.

7.3 The Customer shall pay amounts due in full, without set-off, deduction or withholding, in the currency in which they are invoiced, to the designated bank account of Blubase within 14 (fourteen) days from the date of the invoice or such other payment term as is agreed in the Agreement or set forth in the invoice. Blubase shall at all times be entitled to demand full or partial payment for Products in advance of delivery, or to demand security for payment.

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- 7.4** If the Customer is in default in respect of any payment obligation towards Blubase, Blubase shall, without prejudice to its other rights and remedies, be entitled to charge and the Customer shall be obliged to pay: (i) the higher of the statutory interest under Dutch law (wettelijke rente bij handelstransacties) or, if different, any maximum interest permitted under the law governing the Agreement on any overdue amounts, which interest shall accrue daily from the due date to the date of actual payment in full, and (ii) the extrajudicial costs of collection of all amounts owed to Blubase. In the event of the Customer's payment default under any Agreement, Blubase shall additionally be entitled to suspend (further) performance of any and all of its obligations under all Agreements until the Customer has fully complied with all payment obligations.
- 7.5** The Customer is not entitled to set off amounts due by it to Blubase under an Agreement against amounts due to the Customer by Blubase under that Agreement or any other agreement between the Parties.
- 7.6** Blubase may, at its sole discretion and at any time, unilaterally discontinue or change the Products, and change the List Prices or the Specifications of Products, that are available for purchase by the Customer. Blubase shall use its reasonable efforts to provide the Customer advance written notice (including by way of a general notice through its Website or customer account) of any such material changes in a timely manner. Any such change to the Products, Specifications, and List Prices shall not affect any purchase orders that were confirmed by Blubase and are existing at the date that such change takes effect, unless (i) otherwise agreed between the Parties in writing or (ii) any factor on which the price was based changes between the date of confirmation of the order and the delivery date, including, but not limited to, any changes to (a) the Agreement, (b) the Specifications or (c) labor costs, raw material prices, taxes, and other legal charges or obligations.

8. ADVICE, INSTRUCTIONS, TRAINING AND SUPPORT

- 8.1** Blubase may offer advice, instructions, training, and support in respect of the design, purchase, installation, maintenance, or use of the Products. Blubase shall use its reasonable efforts to provide such advice, instructions, training, and support using the skill, expertise, and care one might reasonably expect from a diligent, suitably qualified, and experienced service provider, however, the Customer shall be solely responsible for its use of and reliance on any such advice, instructions, training and support, and any specifications, calculations, drawings, designs, and other information provided in the context thereof.
- 8.2** While Blubase may provide guidance and instructions on, and (software) tools for, the inspection of sites and structures for installation of the Products, the calculation of load bearing pressure, and the installation and maintenance of the Products, Blubase is never involved in the installation of the Products and the Customer is solely responsible for such inspection, calculations, installation, and maintenance, including by validating any such aforementioned guidance and instructions, and the results of any such aforementioned tools. The Customer, nor any other party, can derive any rights from any such advice, guidance, or instructions provided by Blubase, including (but not limited to) any calculations performed by Blubase.
- 8.3** The Customer hereby indemnifies Blubase and its Affiliates and shall hold them harmless from any and all Losses that they may incur as a result of any claims with respect to the use of designs, drawings, calculations, or other tools provided by Blubase in connection with the Products.

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- 8.4** In the event that Blubase engages a third party for inspection of a site to determine the cause of any defects, Blubase shall be entitled to pass on any reasonable costs for such inspection to the Customer, or to any other party responsible for the installation of the Products, in the event that the third-party inspector determines that the cause of the defects lies in an installation error or any other non-compliance with instructions, guidance or advice provided by Blubase in connection with the use of the Products.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1** Unless expressly agreed otherwise in writing between the Parties, all Intellectual Property Rights in and to the Products, the Blubase Trademarks, and any other works, materials (including software) or documentation made available by Blubase under an Agreement (including where the same has been developed by Blubase for the Customer at its cost), or used by Blubase in the performance of an Agreement, including all improvements, translations, modifications or derivative works relating thereto, shall exclusively vest in Blubase or its third party licensors. Unless expressly specified otherwise in an Agreement, Blubase does not grant the Customer any license under, right or interest in, or make any assignment of, any such aforementioned Intellectual Property Rights.
- 9.2** The Customer shall not alter any of the Products, deface, remove, conceal or otherwise alter Blubase Trademarks used on, in or in relation to the Products, or attach any other trademarks or markings than the Blubase Trademarks to any Product. The Customer shall furthermore not (i) act in any manner which may invalidate or is inconsistent with any Intellectual Property Rights of Blubase, or which may harm the Blubase Trademarks' distinctive qualities, or Blubase's reputation or goodwill in this regard, or harm Blubase's business or trade name, or (ii) oppose the validity of Blubase Trademarks or seek (directly or indirectly) to register or assert any ownership rights to any Blubase Trademarks (in whole or in part) in any jurisdiction, or seek (directly or indirectly) to register, assert ownership of, or use trade names, trademarks, product and service names, brands, logo's, domain names, or any other marks which are, in Blubase's sole opinion (acting reasonably), identical or confusingly similar to (any element of) the Blubase Trademarks.
- 9.3** At Blubase's first request, the Customer is required to return any and all data as referred to in Clause 9.1 within the reasonable time as set by Blubase.

10. CONFIDENTIALITY

- 10.1** Each Party (the **"Receiving Party"**) receiving Confidential Information of the other Party (the **"Disclosing Party"**) shall use and disclose such information only for the purposes of the performance of the Agreement in accordance with the terms thereof. The Receiving Party shall take all reasonable measures to protect the Confidential Information of the Disclosing Party against unauthorized disclosure to or access by third parties, and shall in any event use such care in respect of that Confidential Information as it would use in respect of its own Confidential Information and never less than a reasonable standard of care.

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- 10.2** Clause 10.1 does not apply to any information which the Receiving Party can demonstrate:
- (a)** is in or subsequently enters the public domain other than as a result of a breach of Clause 10.1;
 - (b)** has been or is subsequently received by the Receiving Party from a bona fide third party who is under no confidentiality obligation in respect of that information;
 - (c)** has been or is subsequently independently developed by the Receiving Party without use of the Confidential Information; or
 - (d)** was previously known to the Receiving Party free from any obligation to keep it confidential.
- 10.3** The confidentiality obligations under Clause 10.1 shall not restrict any disclosure of Confidential Information (a) which is required for the purposes of defending or enforcing a Party's rights under an Agreement at law, or (b) which is required by law or by a rule of a listing authority or stock exchange to which any Party is subject or submits, or by any court, arbitrator, supervisory authority or governmental authority with relevant powers to which any Party is subject or submits.

11. DATA PROTECTION

- 11.1** For the purposes of this Clause 11, the terms "personal data", "controller", and "process" (including conjugations thereof) have the meanings given in the GDPR. Each Party acknowledges that it is a controller in respect of any personal data of or deriving from the other Party processed by such first-mentioned Party in performing its obligations under an Agreement, and that it shall process such data in strict accordance with all applicable data protection laws and regulations (including the GDPR, as applicable).
- 11.2** The Customer acknowledges and agrees that Blubase shall process personal data of or deriving from the Customer in accordance with Blubase's privacy statement as made available on the Website, as the same may be varied from time to time.

12. WARRANTIES

- 12.1** Each Party represents and warrants that:
- (a)** it is duly incorporated and validly existing under the applicable law of the country of its incorporation;
 - (b)** it has the requisite power, capacity and authority, and has obtained all consents, permissions and licences necessary, to enter into, deliver and perform its obligations under each Agreement; and
 - (c)** its entry into and performance of an Agreement does not and will not conflict with (or cause such Party to breach) (i) any applicable law, (ii) its constitutional documents, or (iii) any agreement, licence or instrument binding upon it or any of its assets.

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12.2 Blubase represents and warrants that:

- (a)** upon delivery, the Products shall be new (not used or refurbished), and title to the Products shall be free and clear of all liens, security interests, charges, encumbrances and other restrictions except as set out in Clause 5.3; and
- (b)** for the Warranty Period, the Products shall, subject to Clause 12.3, be free from material deficiencies in materials or workmanship and materially comply with their relevant Specifications.

12.3 The warranties given by Blubase under Clause 12.2 in respect of the Products are subject to the Warranty Conditions and the further provisions of this Clause 12, and the Customer shall follow the warranty procedure set out in Error! Reference source not found. (Warranty Conditions) in order to be entitled to any remedy in respect of Defects. The remedies set forth in the Warranty Conditions shall, to the fullest extent permitted under applicable law, constitute Blubase's sole liability and the Customer's sole remedies in respect of Defective Products.

12.4 To the extent permitted under applicable law and except as otherwise provided in an Agreement or these Terms and Conditions, all express or implied representations, warranties, and conditions in respect of the Products, including as regards their conformity to the Agreement, quality, fitness for any particular purpose, merchantability, or non-infringement are expressly excluded.

13. LIABILITY

13.1 Without prejudice to the provisions of Clause 12 and subject to the further provisions of this Clause 13, Blubase's aggregate liability under any Agreement for damages incurred by the Customer shall be limited to the lower of the amount (a) paid by the Customer under the Agreement in relation to the Products in respect of which the damages are claimed, or (b) received by Blubase under any insurance of Blubase in relation to the damages concerned.

13.2 Blubase's liability under any Agreement for any loss of profits, loss of revenues, loss of anticipated savings, loss of goodwill, loss of business opportunities, business interruptions or any other indirect damages or loss is excluded.

13.3 Nothing in these Terms and Conditions or in an Agreement shall operate to exclude or restrict a Party's liability for any damages or loss resulting from its wilful misconduct (opzet), fraud (bedrog) or gross negligence (bewuste roekeloosheid), or which can otherwise not lawfully be excluded or limited under mandatory provisions of applicable law.

14. FORCE MAJEURE

14.1 If a Party is delayed or prevented from complying with its obligations under an Agreement by a Force Majeure Event, then the requirement to comply with those obligations shall be suspended to the extent that performance is delayed or prevented by that event. As soon as reasonably practicable after becoming aware of the Force Majeure Event, the respective Party shall notify the other Party in writing of the Force Majeure Event and the effects of the Force Majeure Event on its ability to perform its obligations under the Agreement.

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14.2 Each Party shall use its reasonable efforts to prevent and mitigate the effects of the Force Majeure Event on the performance of its obligations under an Agreement, and as soon as reasonably possible after the end of the Force Majeure Event notify the other Party in writing that the Force Majeure Event has ended and resume performance of its obligations under the Agreement.

15. TERMINATION

15.1 Without prejudice to any termination rights provided in an Agreement or under applicable law, a Party may, without prejudice to its other rights or remedies, terminate an Agreement in whole or in part without court intervention with immediate effect by written notice to the other Party if the other Party:

- (a)** has an administrator, receiver or administrative receiver appointed to it or any substantial part of its assets;
- (b)** is dissolved or passes a resolution or makes a determination for its dissolution or liquidation (other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- (c)** becomes subject to an administration order or petition for its insolvency or bankruptcy;
- (d)** is unable to pay its debts when they fall due; or
- (e)** ceases (or threatens to cease) to carry on business.

15.2 The termination or expiry of an Agreement shall not affect (i) any accrued rights or liabilities of a Party under the Agreement existing at the time of such termination or expiry, or (ii) the continuance of those provisions of the Agreement which are necessary for the interpretation or enforcement of the Agreement or which by their wording or nature are reasonably intended to continue.

16. GOVERNING LAW AND JURISDICTION

16.1 These Terms and Conditions and, except as otherwise provided in an Agreement, each Agreement are governed by the laws of the Netherlands. The application to any Agreement of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

16.2 Unless expressly agreed otherwise between the Parties in writing, any dispute, claim, or controversy relating to these Terms and Conditions or an Agreement, or to the breach, termination, enforcement, interpretation or validity thereof, whether contractual or non-contractual, that cannot be resolved amicably shall be exclusively referred for adjudication in first instance (in eerste aanleg) by the competent courts of Overijssel, the Netherlands, provided that in urgent matters Blubase shall additionally be entitled to seek injunctive relief or provisional measures (voorlopige voorzieningen) in any court of competent jurisdiction under applicable law.

Lastly amended: 1 October 2022.

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SCHEDULE 1 DEFINITIONS

1. In addition to terms defined elsewhere in these Terms and Conditions, the following terms with an initial capital shall have the following meanings throughout these Terms and Conditions (including its recitals and Schedules) unless the context apparently requires otherwise:
 - (a) **“Affiliate”** means, with regard to Blubase B.V., any other Person directly or indirectly controlling, controlled by, or under common control with Blubase B.V., and the term “control” (and conjugations thereof) shall in this context mean the direct or indirect (i) ownership of more than 50% (fifty per cent.) of the nominal value of the share capital issued, (ii) possession of more than 50% (fifty per cent.) of the voting power at general meetings, or (iii) power to appoint and to dismiss a majority of the directors or to otherwise direct the activities of Blubase B.V.
 - (b) **“Agreement”** means any agreement, including a confirmed purchase order, for the sale and delivery of Products by Blubase entered into between the Parties.
 - (c) **“Blubase”** means Blubase B.V. or any of its subsidiaries from time to time.
 - (d) **“Blubase Trademarks”** means any registered or unregistered trademark, trade name, product name, service name, domain name, brand, logo, or other mark owned or used by or on behalf of Blubase.
 - (e) **“Business Day”** means any day of the week, except Saturday and Sunday and public holidays in the Netherlands.
 - (f) **“Confidential Information”** means (i) the terms of an Agreement, and (ii) all information about a Party or pertaining to the business affairs of a Party or its Affiliates which, in relation to or in connection with an Agreement, is (directly or indirectly) disclosed to or otherwise acquired by the other Party in any form (whether orally, electronically, in writing or by another means), including information on products, services, operations, processes, plans or intentions, developments, trade secrets, knowhow, (works protected by) Intellectual Property Rights, market opportunities, personnel, customers, suppliers, and subcontractors, and all information derived from the foregoing, in each case insofar as such information would, under the circumstances, appear to a reasonable person to be of a confidential nature or is expressly stated to be confidential or proprietary.
 - (g) **“Consumer”** means a natural person who is acting for purposes other than in the context of his or her business or professional activities.
 - (h) **“Customer”** means each Person to whom Blubase has submitted an Offer or with whom Blubase has concluded an Agreement.
 - (i) **“Defect”** and **“Defective”** means a demonstrable failure of a Product to conform to the warranties under Clause 12.3.

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- (j) **“Force Majeure Event”** means an event which is beyond the reasonable control of Blubase, including any strike, lock-out or labour disputes, act of God, fire, flood, storm and other extreme weather conditions, war, military action, acts of governmental authorities, riot, terrorism, epidemic, pandemic, explosion, material breakdown or malfunction of plant, machinery or software, failure of delivery or material lack or shortage of essential supplies and services (including raw materials, waste processing, electrical power, fuel, or water), and including where any such event arises in respect of Blubase’s suppliers or subcontractors.
- (k) **“GDPR”** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- (l) **“Intellectual Property Rights”** means (i) any and all intellectual or industrial property rights anywhere in the world, whether registered or unregistered and whether having a statutory basis or existing under equity, common law or otherwise, including, without limitation, patents, utility model rights, rights in layout-designs (topographies) of integrated circuits, rights in trade secrets, rights in confidential information and know-how, design rights, copyrights (including rights in software), neighbouring rights, database rights or other rights in compilations of data, and any and all rights of a similar nature, and (ii) all applications and rights to apply for any of such aforementioned intellectual or industrial property rights, including registrations, renewals and extensions, anywhere in the world.
- (m) **“List Prices”** means Blubase’s non-discounted, gross prices for the Products as determined by Blubase from time to time and made available to the Customer including by way of a general notice through a Website or customer account.
- (n) **“Loss” or “Losses”** means any and all claims, losses, damages, liabilities, penalties, fines, taxes, charges, costs (including internal costs), and expenses of whatever nature (including attorneys’ fees and court fees) howsoever arising.
- (o) **“Offer”** means any offer or quotation made by or on behalf of Blubase by an authorised representative of Blubase for the sale and delivery of Products by Blubase.
- (p) **“Parties”** means Blubase and Customer.
- (q) **“Person”** means any individual, firm, partnership, trust, limited liability entity, joint venture, company, corporation, body corporate, unincorporated body, association, organization, government, state, agency of a government or state, local or municipal authority or other governmental body, in each case whether or not having separate legal personality, and includes that person’s legal representatives, successors, permitted assigns and permitted nominees in any jurisdiction.
- (r) **“Products”** means mounting materials and systems for solar panels, and any other goods (including spare parts) that Blubase may offer for sale from time to time.
- (s) **“Specifications”** means, in respect of each Product, the written functional and technical specifications of such Product as set forth in the documentation provided by Blubase in respect of such Product, and as may be further specified in an Agreement.
- (t) **“Terms and Conditions”** means the present general terms and conditions of sale, including the Warranty Conditions, as the same may be amended from time to time in accordance with the provisions herein.

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A. Warranty scope

- (1) These warranty conditions (the **“Warranty Conditions”**) apply to all sales of Products (as herein after defined) by Blubase B.V. (**“Blubase”**) to any third party (**“Purchaser”**). The Warranty Conditions form an integral part of and are governed by the terms of each agreement (including any confirmed purchase order) entered into between Blubase and the Purchaser for the sale of Products (each, including the applicable Blubase General Terms & Conditions of Sale, a **“Sales Agreement”**). In the event of any conflict between the terms of a Sales Agreement and the terms of these Warranty Conditions, the former shall prevail.
- (2) These Warranty Conditions only apply to Sales Agreements concluded with Blubase directly. Customers of potential resellers of Products must direct any claims under warranty exclusively to the distributor or reseller from whom they purchased the Product and not to Blubase.
- (3) Under the conditions set forth herein, Blubase warrants that the solar rooftop mounting products, including the Solar Construct Nederland and SolarStell mounting products, as provided by Blubase under the Sales Agreement (the **“Products”**) shall, for a period of 20 (twenty) years from the date of delivery by Blubase or such longer period as is demonstrably required under mandatory provisions of applicable law (the **“Warranty Period”**), be free from material deficiencies in materials and workmanship and conform to their functional and technical specifications as set forth in the product documentation provided by Blubase in relation to such Products (the **“Specifications”**).

B. Warranty procedure

- (4) Any demonstrable failure of a Product to meet the warranty set forth in clause 3 of these Warranty Conditions (a **“Defect”** or **“Defective Product”**) must be reported to Blubase in writing (including by email) by the Purchaser promptly upon becoming aware thereof, thereby including all information reasonably known to the Purchaser in respect of the alleged Defect, including, as appropriate, photographs or video recordings of the alleged Defect.
- (5) The Purchaser shall provide Blubase without undue delay with all additional information and cooperation (including access to facilities and premises) reasonably requested by Blubase in respect of any (allegedly) Defective Products in order to enable Blubase to assess each claim under warranty. At Blubase’s request the Purchaser shall furthermore, at Blubase’s cost and in accordance with Blubase’s instructions, send the allegedly Defective Products to Blubase or such third party service provider as is designated by Blubase for Blubase’s assessment.

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- (6) Blubase shall, or shall procure that its designated third party service provider shall, assess whether allegedly Defective Products under any warranty claim are indeed covered by the warranty provided under these Warranty Conditions and notify the Purchaser in writing of the outcome of this assessment. In the event that any such Product is validated as Defective by Blubase or its designated third party service provider, Blubase shall determine the remedy to which the Purchaser is entitled in respect of the Defective Product in accordance with these Warranty Conditions. With regard to any Product that is not validated by Blubase as Defective: (i) Blubase shall (insofar as delivered to Blubase for assessment) deliver the Product back to the Purchaser at the Purchaser's cost, and (ii) the Purchaser shall promptly at Blubase's request reimburse Blubase for the reasonable costs incurred by Blubase in performing the assessment of the warranty claim.
- (7) Any Defects that may apparently have resulted from the transport of Products must, where the transport was Blubase's responsibility, be reported to Blubase in writing (including by email within 48 hours from delivery, and in such cases shall always be accompanied by photographs or video recordings of the alleged Defects. Blubase is only responsible for Defects arising from transportation if such transport was conducted by or on behalf of Blubase, and such transport was not the Purchaser's responsibility.
- (8) Any claim under warranty shall not entitle the Purchaser to suspend the performance of any of its obligations under the Sales Agreement.

C. Warranty remedies

- (9) After Blubase has validated an alleged Defect as being a Defect covered by the warranty as set forth in these Warranty Conditions, Blubase shall as soon as reasonably practicable, at its option and at its cost:
 - (a) repair the Defective Product;
 - (b) replace the Defective Product by a new, similar Product, in which event the Purchaser shall return the Defective Product to Blubase at its cost; or
 - (c) if repair or replacement are not, in Blubase's opinion, reasonably possible, reimburse the amount paid for the Defective Product to the Purchaser, deducting only the pro-rata amount (calculated on a linear depreciation basis over the full Warranty Period) that reflects the time that the Purchaser was able to make use of the Product without any Defect, in which event the Purchaser shall return the Defective Product to Blubase at its cost.
- (10) Blubase and the Purchaser may also agree in writing that the Purchaser shall retain the Defective Product and Blubase shall reimburse part of the amount paid for such Product.
- (11) The Purchaser shall, at its cost, provide Blubase all reasonable cooperation (including access to facilities and premises) as is required to provide the remedies in respect of Defective Products under warranty.

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- (12) With regard to a Product repaired or replaced under warranty, the original Warranty Period shall apply (i.e., running from the date the Product was initially delivered).
- (13) Except as otherwise set forth in the Sales Agreement or as required under mandatory provisions of applicable law, the remedies as set forth in these Warranty Conditions constitute Blubase's sole liability and the Purchaser's exclusive remedies in respect of any Defect.

D. Warranty exclusions

- (14) No warranty shall apply and Blubase will have no liability under warranty in respect of a Defect:
 - (a) that was not notified to Blubase within the Warranty Period in accordance with these Warranty Conditions;
 - (b) that does not adversely impact the functionality of the Product, including minor deficiencies such as scratches, stains, superficial surface corrosion, colour fastness deviations, etc.
 - (c) that arises as a result of transportation of the Product, other than any transportation for which Blubase is responsible;
 - (d) that arises as a result of any third party products, components or materials used by the Purchaser in conjunction with the Product, which third party products or materials have not been provided for such use by or on behalf of Blubase or the use of which has not been expressly authorised by Blubase;
 - (e) that arises from any use of the Product other than in accordance with the Specifications or any use other than the normal, intended use;
 - (f) that arises from the faulty handling, storage, assembly, loading or installation of the Product, or any handling, storage, assembly, loading or installation not in accordance with the instructions given by Blubase;
 - (g) that arises from mounting the Product on a building, roof or other construction that is unsuitable for the mounting of the Product;
 - (h) that arises from any modifications, replacements (including of spare parts) or repairs in respect of the Product other than by or on behalf of Blubase or with Blubase's express written authorisation;
 - (i) that arises from circumstances of force majeure, including (without limitation) hail, lightning, storm, flood, explosions, fire, vandalism, extreme wind speeds or temperatures, other extreme weather conditions, or any other events of force majeure as may be set out in the Sales Agreement or that may apply in accordance with applicable law;

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- (j) that arises in the absence of proper professional maintenance, non-compliance with the applicable installation and/or assembly instructions, incompetent, injudicious or improper use, normal wear and tear and aging, poor assembly, or damage due to chemical, electrical, electrolytic, corrosive and/or environmental influences; and/or
- (k) that arises when the correct quantities or components have not been used as prescribed in the assembly instructions and calculators, or when the building, roof, roof covering or construction is not suitable for installing solar panels with the Products.

Lastly amended: 1 October 2022.