

# GENERAL CONDITIONS OF DELIVERY, PAYMENT AND SALES OF STICHTING INTERNATIONAL DISPENSARY ASSOCIATION



## 1. General

- 1.1. These General Conditions shall apply to all offers, quotations, supplies and services in the broadest sense to be rendered by Stichting International Dispensary Association, a civil-law foundation, also trading under the name of IDA Foundation, having its registered office at Slochterweg 35, (1027 AA) Amsterdam, the Netherlands (hereinafter to be referred to as "**IDA**"), as well as to all (additional) agreements between IDA and a customer (hereinafter to be referred to as the "**Customer**").
- 1.2. For purposes of these General Conditions the Customer shall be taken to mean: any private (legal) entity that has entered, or wishes to enter, into an agreement with IDA, in which IDA undertakes to provide medicines, (medical) supplies, and other (medical) products and/or services (hereinafter jointly to be referred to as the "**products**"), as well as their legal successors.
- 1.3. The Customer shall be under an obligation, upon request, to demonstrate that it does not operate with a profit motive (in Dutch "winstoogmerk"). IDA shall at all times be entitled to dissolve the agreement out of court, even if it has already come into effect, if the Customer turns out to be an organisation operating with a profit motive (in Dutch "winstoogmerk") or otherwise acting contrary to or in derogation of IDA's objects, all at IDA's discretion. IDA shall not be liable for any damage that the Customer may suffer as a result of dissolution of the agreement for this reason.
- 1.4. For purposes of these General Conditions "in writing" or "written" shall be taken to mean: by letter, by fax or electronically.
- 1.5. Any additional and/or derogating conditions, including purchase conditions, of the Customer shall not form part of the agreement between IDA and the Customer and shall not be binding on IDA, unless IDA has accepted all or part of the Customer's conditions in writing.

- 1.6. Any deviations to the General Conditions shall be binding only if and to the extent agreed in writing between IDA and the Customer and only for the offers, quotations, supplies, services and (additional) agreements to which they relate. The other offers, quotations, supplies, services and (additional) agreements shall remain fully governed by these General Conditions.
- 1.7. In the event that the General Conditions and any agreement contain mutually conflicting clauses, the relevant agreement shall prevail.
- 1.8. At the Customer's request IDA shall provide the Customer with a (informal) translation of these General Conditions into the English language or, against payment of a reasonable fee, in another language. In the event of a difference of opinion as to the interpretation of the contents of these General Conditions, the Dutch text shall prevail and its meaning shall be binding in the Dutch territory.

## **2. Price Quotations**

- 2.1. All offers (including price quotations) and other quotations (such as those included in price indicators, brochures, etc.) drawn up by IDA shall be without engagement. Any offer or quotation may be revoked by IDA up to three (3) work days after receipt of the Customer's acceptance.
- 2.2. An order shall not come into effect until IDA accepts it in writing – after the Customer's acceptance of the offer or the Customer's placing an order for delivery – by means of an order confirmation. The order confirmation shall be deemed correctly and fully to represent the agreement. Any additional arrangements or amendments shall be binding only if confirmed by IDA in writing.
- 2.3. Any agreements for which, in view of their nature and scope or based on (implicit or explicit) arrangements made between the parties), no offer and/or order confirmation is sent, shall come into effect as a result of IDA's commencement of performance thereof.
- 2.4. IDA shall be entitled, if deemed necessary or desirable for proper execution of the order granted, to engage third parties in the performance of the agreement, the costs of which shall be passed on in accordance with the price quotation provided by the relevant third party.

- 2.5. All intellectual and industrial property rights (including but not limited to copyrights) in products supplied, packaging and/or inserts, shall be owned by IDA and/or third parties. The Customer shall not be entitled to use any such packaging and/or inserts without IDA's explicit written consent.
- 2.6. In the event that the Customer acts in the course of a profession or business, Articles 6:227b (1) and 6:227c of the Dutch Civil Code [*Burgerlijk Wetboek - "BW"*] shall not apply.

### 3. Price

- 3.1. The price of products to be supplied by IDA shall be stated in a so-called price indicator as well as on the internet. The prices thus stated shall serve as guidelines. The Customer cannot derive any rights from the information in the price indicator or on the internet. The prices stated in the price indicator shall serve as guidelines only until the next price indicator is published.
- 3.2. Unless expressly agreed otherwise, all prices quoted by IDA shall be exclusive of *BTW* (Dutch VAT), import duties, and other taxes, levies or rights, costs of packing, costs of loading and unloading, and costs of transport and insurance. Moreover, IDA shall be entitled to charge administrative and handling expenses.
- 3.3. Unless expressly agreed otherwise, the costs of any third parties engaged in the performance of the agreement shall in no event be deemed to be included in the offers issued by IDA.
- 3.4. After the agreement has been entered into, IDA may adjust the price or dissolve the agreement if any factors justifying that should occur, such factors including but not being limited to an increase in the prices of raw materials, labour and production costs, fuel costs, import duties, taxes, currency changes etc.
- 3.5. After being notified of the adjustment of the prices as referred to in article 3.4, the Customer may dissolve the agreement if IDA makes the adjustment to the stipulated price within three (3) months of entering into the agreement. Dissolution by the Customer shall be effected in writing within one (1) week of being notified of the price adjustment. If the Customer has not dissolved the agreement in writing within one (1) week of being notified of the price adjustment, the parties shall be deemed to have reached

agreement on the price increase communicated by IDA.

#### **4. Delivery Period and Terms**

- 4.1. Unless agreed otherwise in writing, delivery shall be Ex Works (Incoterms 2010).
- 4.2. Unless agreed otherwise in writing, IDA shall be responsible for loading and unloading, as well as transport or shipment, of the products, all at the expense and risk of the Customer. IDA shall be free to determine the method of transport/shipment, without accepting any liability in that respect. If so desired, the Customer may take out insurance through IDA for the products to be transported/shipped, in which event, in addition to the cost price, a premium shall be due by the Customer.
- 4.3. The delivery period shall be determined based on the agreements made between the parties. Any delivery periods stated shall, however, be indications only and shall in no event be deemed to be deadlines.
- 4.4. If IDA has stipulated a down payment/advance payment/bank guarantee/letter of credit from the Customer, and IDA has not received same by the agreed date, IDA may adjust the agreed delivery period accordingly.
- 4.5. As soon as IDA establishes that an agreed delivery period will be exceeded, IDA shall contact the Customer in that respect. The Customer's obligations shall remain unchanged. Only in the event of excessively late delivery (more than ten (10) weeks later than the agreed delivery period) shall the Customer be entitled to dissolve the agreement. In no event shall the Customer, however, be entitled to any penalty or damages vis-à-vis IDA.
- 4.6. IDA reserves the right within a reasonable tolerance range (up to five percent (5%)) to derogate from the agreed quantities for each type of product to be supplied, without any right on the Customer's part to delivery or return of the discrepancies between the quantity delivered and the quantity agreed, nor shall the Customer be entitled to any damages or dissolution of the agreement either. In such event IDA shall adjust the price accordingly – either upward or downward – save if and to the extent that the discrepancies between the quantity delivered and the quantity agreed are the result of the use of any products for sampling purposes.

- 4.7. IDA reserves the right to make changes to (the composition of) the products to be supplied by it, if so required based on amendments to legislation and/or regulations. IDA warrants that any such changes shall not impair the functional characteristics of such products.
- 4.8. The minimum order value shall at all times be EUR 1,500 (in words: fifteen hundred euro's). Moreover, IDA shall be entitled to determine a minimum order quantity.
- 4.9. IDA reserves the right to make partial deliveries, in which event the (payment) terms and conditions set forth below shall also apply to each partial delivery.

## **5. Customer's Taking Delivery**

- 5.1. The Customer shall take delivery of the products delivered at the time of delivery.
- 5.2. If the Customer fails to take delivery of the products at the time of delivery, the Customer shall be in default, without any further notice of default being required, and IDA may store the products at the Customer's expense and risk. Furthermore, IDA shall be entitled to invoice the relevant products to the Customer in accordance with the provisions of article 3 of these General Conditions and the Customer shall be obliged to pay the relevant invoice. All costs ensuing from the foregoing circumstances, including but not limited to the costs of storage and possible decrease in revenue, shall be paid by the Customer, just as the invoice referred to above, before any obligation can arise on IDA's part to deliver the relevant products. The foregoing shall not affect any other rights that IDA may have.

## **6. Payment**

- 6.1. Unless agreed otherwise in writing, payment of the invoices shall be made by transfer to a bank or giro account designated by IDA within thirty (30) days of the date of the invoice in the currency stated by IDA in the invoice. Payment shall be made without deduction of any discount, bank charges or setoff. IDA reserves the right to require advance payment, a down payment, a Letter of Credit, a bank guarantee (the latter two to be issued by an

internationally recognised organisation) or immediate payment in cash.

- 6.2. Unless it is agreed otherwise in writing, payment of the invoices shall be made by the Customer. If the parties have agreed that payment will be made by a third party, IDA shall remain entitled, if such third party fails in any way whatsoever to perform its payment obligation, to claim payment by the Customer.
- 6.3. Payment shall not be deemed to have been made until the amount due has been irrevocably credited to IDA's bank account.
- 6.4. In the event of late payment the Customer shall be in default by operation of law as from expiry of the payment term, without any further notice of default being required, and interest shall be due on the payable amount (including *BTW* (Dutch VAT)) as from the date of occurrence of such default equal to the statutory interest for commercial agreements as referred to in Articles 6:119a and 6:120 BW.
- 6.5. If the Customer is in default in the performance of any of its obligations, all reasonable costs incurred to obtain payment out of course shall be paid by the Customer, such costs equalling 15% of the principal claim (excluding interest). If the actual costs of collection exceed such amount, IDA shall be entitled to claim compensation of the costs actually incurred. Payment of a sum attributable to a certain obligation shall in the first instance go to reduce the costs, subsequently to reduce the interest that has fallen due, and finally to reduce the longest outstanding and payable invoices and current interest.
- 6.6. Upon or after entering into the agreement IDA may, before performing or continuing to perform, require the Customer to provide security with respect to both the payment obligations and the other obligations of the Customer. If the Customer fails to provide security within the term set by IDA, IDA may dissolve the agreement out of court and the Customer shall be liable for all damage resulting from such dissolution.

## **7. Retention of Title**

- 7.1. IDA retains title to all products supplied by IDA to the Customer. Title to such products shall not pass to the Customer until the

Customer has performed all its payment obligations under this and any similar agreements.

- 7.2. As long as the Customer has not paid the above-mentioned claims the Customer may not establish any right of pledge or non-possessory pledge for third parties on the products supplied by IDA or borrow money on or rent out, or in any way or under any title whatsoever surrender control of, such products, save as provided in article 7.3. In the event of attachment of any product supplied by a third party, on any ground whatsoever, the Customer shall immediately notify IDA in writing.
- 7.3. The Customer may use or sell the products in the course of its normal business operations.

## **8. Complaints**

- 8.1. Promptly upon taking delivery the Customer shall inspect the products supplied, the quantity and the type of products, as well as the packaging, for any errors, shortcomings and/or damage. Any shortcomings in quantity and types, visible defects and/or damage to the products delivered, as well as to the packaging, shall be reported by the Customer on the transport document or the delivery note, on forfeiture of the right to complain in this respect. Any complaints shall be filed as soon as possible, but in any event within seven (7) days of receipt of the products, accurately stating the nature of, and the ground for, the complaints, otherwise the Customer shall be deemed to have accepted the products delivered. Putting the products into operation shall be deemed to constitute acceptance.
- 8.2. In the event of a complaint the Customer shall be under an obligation to make the products and/or batches about which it complains or a sample representative of the batch available to IDA. Moreover, the Customer shall render its co-operation in an investigation by IDA, if any.
- 8.3. A complaint shall not entitle the Customer not to perform its (payment) obligations vis-à-vis IDA or to invoke suspension or setoff.
- 8.4. The provisions of the foregoing articles shall not affect the Customer's statutory rights in the event of hidden defects to the products delivered. The Customer shall be under an obligation to



report any hidden defects in writing to IDA within seven (7) days of the date on which they have, or reasonably could have, been established, on forfeiture of its rights in that respect.

- 8.5. The products may be returned only with IDA's prior written consent, on conditions subsequently to be determined by IDA. In the event that products are returned without IDA's consent, shipment and storage of the products shall be at the Customer's expense and risk.
- 8.6. If the parties disagree on the merits of a complaint with respect to the products delivered, the parties shall jointly engage an independent expert, seeking such expert's opinion. The outcome of the investigation by the independent expert shall be binding on the parties, unless agreed otherwise in writing. The costs of the investigation shall be paid by the (largely) unsuccessful party.
- 8.7. If a complaint is justly filed, IDA shall be solely obliged to deliver the missing products, replace the products delivered or take the products back and credit the Customer for the relevant invoice amount. In no event shall IDA be under any other obligation whatsoever, including any obligation to pay any other costs and/or damages.

## **9. Warranty**

- 9.1. IDA warrants that upon delivery the products are free from any major defects in material and workmanship and satisfy the requirements of quantity and quality as shown by the written order confirmation and the applicable product specifications.
- 9.2. Any documentation (including brochures), disclaimers and advice in respect of the use and properties of the products supplied, other advice and assistance shall be drawn up and/or provided by IDA to the best of its knowledge and ability. IDA does not warrant the correctness and completeness of the information thus obtained.
- 9.3. All other (implied) conditions and warranties with respect to the quality of the products or their suitability for their intended use are expressly excluded, unless explicitly agreed otherwise in writing between the parties.
- 9.4. Any third-party products shall be supplied only subject to the warranty provisions of the relevant third parties which IDA shall provided to the Customer upon request.



## **10. Customer's Use and/or Obligations/Indemnification**

- 10.1. The Customer shall use the products supplied in accordance with IDA's (storage) instructions only. Moreover, the Customer undertakes not to trade the products supplied within the European Union.
- In no event shall the Customer use the products supplied in any way that is contrary to, or otherwise derogates from, IDA's objects, without IDA's prior written consent.
- 10.2. In the event that the products supplied – if such products are medicines – are not registered in the country of destination, the Customer warrants vis-à-vis IDA that it is authorised to trade such medicines there.
- 10.3. In the event that the products supplied are psychotropics and/or narcotics, the Customer shall, prior to delivery, provide IDA with an original copy of the import licence issued by the authorities of the country of destination, for the purpose of IDA's obtaining an export licence.
- 10.4. The Customer shall indemnify IDA against the consequences of any third-party claims, costs and damage ensuing from the Customer's failure to perform its obligations under this article.

## **11. Liability**

- 11.1. IDA's liability to the Customer shall be limited to IDA's obligations as set forth in articles 8 and 9.
- 11.2. Save in the event of intentional act or gross negligence on IDA's part, IDA shall in no event be liable for any damage suffered by the Customer. Furthermore, any liability for indirect damage, consequential damage, non-material damage, business or environmental damage, or damage as a result of liability to third parties, is excluded.
- 11.3. If and to the extent that, despite the provisions of article 11.2, IDA is subject to any liability on any ground whatsoever, such liability shall be limited to a maximum amount of EUR 500,000 (in words: five hundred thousand euro's) per damage event and to a maximum amount of EUR 750,000 (in words: seven hundred and fifty thousand euro's) per calendar year. For purposes of this

article, a series of related damage causing events shall be deemed to constitute one (damage) event.

- 11.4. Any claims for damages shall be filed with IDA in writing within two (2) months of the time that the Customer could have discovered the damage, on forfeiture of any claim for damages.



## **12. Reporting of Incidents/Handling of Complaints**

- 12.1. The Customer shall promptly notify IDA in writing of any incidents and/or (serious) side effects that may occur in relation to any products supplied. "Incidents" shall be taken to mean any incident in relation to a product that has resulted in death, serious deterioration of the health condition (including but not limited to life-threatening illness or injury; permanent impairment of a bodily function or permanent damage to the body structure; or a situation that requires medical or surgical intervention to prevent permanent impairment of a bodily function or permanent damage to the body structure) or that could have resulted in death or serious deterioration of the health condition. "(Serious) side effects" shall be taken to mean any reaction that may occur in relation to the products supplied that is damaging and unintended and that occurs in dosages normally used.
- 12.2. Furthermore, the Customer shall provide IDA all the support that may reasonably be required of it in connection with reporting any incidents and (serious) side effects to the competent authorities.
- 12.3. Together with the report the Customer shall provide IDA with all documentation and other relevant information in connection with the relevant incident and/or (serious) side effect in order to enable IDA fully to perform its obligation to notify the competent authorities of any such incidents and/or (serious) side effects in good time.
- 12.4. Without prejudice to the provisions of the foregoing paragraphs, the Customer shall set up and maintain a proper registration procedure with respect to complaints, remarks and questions as to (the use of) the products supplied. The Customer shall promptly notify IDA of any complaint, remark and question that the Customer receives in respect of the products supplied, and shall provide IDA with all related documentation and information. The Customer shall handle any such complaints, remarks or questions

only with the prior consent of IDA. In such event the Customer shall handle the relevant complaint, remark or question in accordance with the instructions provided to it by IDA in that respect.

### **13. Recall**

- 13.1. The Customer undertakes to assist IDA in carrying out a recall, if any. To that end the Customer undertakes to keep adequate records for the purpose of traceability of the products supplied for a period of at least five (5) years after the date of sale or use of the products supplied. The records shall at least contain information as to sale or use dates, quantities, batch numbers and batch specifications and all such other information as may be necessary for the purpose of a possible recall. IDA shall at all times be entitled to inspect such records or to receive copies thereof from the Customer.
- 13.2. In the event of a recall, the Customer shall render its full cooperation so that such recall can be carried out promptly and effectively. This shall include the following:
- Within four (4) hours of IDA's notifying the Customer about the recall, the Customer shall notify IDA of the parties to which the Customer has delivered the products covered by the recall;
  - The Customer shall promptly cease, and not resume, use or sale of any products covered by the recall;
  - The Customer shall, as soon as possible, but not later than twenty-four (24) hours after IDA's communication of the recall, withdraw the products covered by the recall from the market or cease use thereof, isolate the relevant products from other products, and label the relevant products as "in quarantine", so that the products to be recalled cannot be used or sold, and can be collected by IDA;
  - At IDA's request, the Customer shall destroy the products covered by the recall in accordance with IDA's instructions. If IDA requires the foregoing, an IDA representative shall supervise destruction, and the Customer shall submit proof of destruction;
  - The Customer shall carry out stock counts to ensure that all products covered by the recall have been identified and removed from the shelves;

- The Customer shall at all times grant IDA staff and representatives access to its premises to allow them to verify whether the recall has been sufficiently effective. The Customer shall thereby render all assistance to such staff and representatives;
- The Customer shall ensure that its staff directly or indirectly responsible for the recall is aware of the recall procedure set forth herein;
- If the Customer fails to render its full and prompt cooperation to the conditions set forth in this article, IDA shall hold the Customer liable for any damage suffered or to be suffered by IDA, including but not limited to damage pursuant to the product liability rules and damage as a result of negligence.

13.3. IDA shall be obliged to compensate the Customer only to the extent that the Customer meets all the requirements set forth in this article. IDA's liability in the event of a recall shall be limited to payment of the price at which the Customer had purchased the products covered by the recall or replacement of such products, all at IDA's sole discretion.

#### **14. Cancellation**

- 14.1. Orders may, in principle, not be cancelled by the Customer. If, however, the Customer cancels all or part of an order, it shall be under an obligation to reimburse all costs reasonably incurred with a view to performance of such order (including costs of preparations, storage, etc.). Furthermore, the Customer shall compensate any costs ensuing from the cancellation and exchange differences, if any, if IDA has entered into a currency agreement with a bank or another third party in connection with the order.
- 14.2. Without prejudice to the provisions of article 14.1 in the event of cancellation the Customer shall pay cancellation costs equal to ten percent (10%) of the principal amount, to be increased by *BTW* (Dutch VAT).

#### **15. Termination of the Agreement**

- 15.1. Either the Customer or IDA may dissolve an agreement with immediate effect and without any judicial intervention being

required if the other party is declared insolvent or bankrupt or if the other party has been granted a (provisional) moratorium on payment of its debts, as well as if the other party, after having been given written notice of default, continues to fail to perform any of its obligations. The terminating party shall not be under any obligation whatsoever to pay damages. The foregoing grounds shall not be deemed to be exhaustive; other serious grounds may also result in termination of the agreement with immediate effect.

- 15.2. Article 15.1 shall not prejudice the option of dissolution of the agreement pursuant to the law.
- 15.3. Without prejudice to the provisions of article 15.1, IDA shall, if the Customer fails to perform, or properly to perform, or to perform in good time, any of its obligations under an agreement with IDA and/or these General Conditions, be entitled to suspend all or part of its obligations under the agreement and any directly related agreements until such time as the Customer has performed its corresponding obligations. In such event the Customer shall be under an obligation to compensate all damage, including damage as a result of lost profits, to be suffered by IDA.
- 15.4. If the agreement is terminated early by either party or in the event of suspension of the obligations under the agreement, IDA shall remain entitled to payment of invoices for deliveries made until such time.
- 15.5. The parties' rights and obligations as set forth in articles 10 (Customer's Use and/or Obligations/Indemnification), 11 (Liability), 12 (Reporting of Incidents), 13 (Recall), and 17 (Confidentiality) shall survive termination of an agreement between the parties.

## **16. Force Majeure**

- 16.1. IDA shall be bound to perform any obligation under an agreement if prevented from doing so due to force majeure.
- 16.2. For the purpose of this article, "force majeure" shall be taken to mean any circumstances of such a nature that, as a result, the performance of an agreement is rendered impossible, or inconvenient and/or disproportionately expensive to such an extent that IDA cannot reasonably be required to continue to perform, or immediately to perform, the agreement.
- 16.3. Force majeure shall in any event include but not be limited to:

- war, international conflict, invasion, aggression of a hostile power, and similar situations;
- uprising, terrorism, revolution, rebellion, civil war or acts by military or paramilitary troops or civil militias, and similar situations;
- riots, insurgency, disturbance of public order, strike and lockouts by staff of IDA or third parties engaged by IDA, and similar situations;
- incident involving war ammunition, explosives, ionizing radiation or radioactive contamination, to the extent not the result of IDA's use of such ammunition, explosives, radiation or radioactivity, and similar situations;
- natural disaster, such as earthquake, flooding, hurricane, typhoon, stroke of lightning, volcanic activity or epidemic, and similar situations;
- government measures and similar situations;
- obstructions by third parties and similar situations;
- transport problems (harbour, truck and aircraft problems), including delays at country borders, and similar situations;
- unforeseen technical complications and similar situations;
- qualitative rejection by IDA of the products to be supplied;
- stagnation as a result of frost and other weather influences;
- the situation where a third-party performance that is of importance to the performance to be rendered by IDA, is not, not punctually, or not properly rendered to IDA, and similar situations.

16.4. IDA shall notify the Customer in writing of its reliance on force majeure within seven (7) days of the occurrence the circumstances constituting force majeure, stating the reasons. The notice referred to in the foregoing sentence shall in any event include (1) the obligations that IDA is unable to perform due to the situation of force majeure, and (2) the expected period of the situation of force majeure.

16.5. If the situation of force majeure has exceeded a period of one hundred and eighty days, IDA may terminate the agreement by dissolution with immediate effect, without any judicial intervention being required. In such event the Customer shall not be entitled to any damages.

16.6. The Customer may not dissolve the agreement, unless (1) the Customer can demonstrate that timing of the performance is of the essence to its business operations, and (2) moreover, the situation

of force majeure is not expected to end within the foreseeable future (60 days). In such event dissolution shall be effected in writing not later than five (5) days of expiry of the period referred to in paragraph 5. In such event the Customer shall compensate the damage suffered by IDA as a result of dissolution.

- 16.7. During the period of force majeure IDA shall take all reasonable measures to arrange termination of the situation of force majeure or to mitigate the adverse effects thereof for the Customer. IDA shall notify the Customer of the measures referred to in the foregoing sentence.
- 16.8. As soon as the situation of force majeure has ended, IDA shall notify the Customer, stating in any event when IDA will resume delivery.
- 16.9. If upon occurrence of the situation of force majeure IDA has already performed part of its obligations or can perform only part of its obligations, it may invoice the part that has already been delivered or that can be delivered separately, and the Customer shall pay such invoice as if it were a separate agreement. In the event of force majeure IDA shall also be entitled to charge the costs to be incurred by it as a result of such situation of force majeure to the Customer, including but not limited to costs of storage, costs as a result of demurrage, and any lower revenue. Any costs ensuing from the foregoing shall, just as any outstanding invoices in that respect, be paid by the Customer before any obligation can arise on IDA's part - after the situation of force majeure has ended - to deliver the relevant products.

## **17. Confidentiality**

- 17.1. The Customer undertakes vis-à-vis IDA to keep confidential all confidential information and data received by it from IDA in the context of an agreement. Information and data shall be deemed to be confidential if so labelled by IDA or if such confidentiality ensues from the nature of the information and/or data, in any event including all information related to incidents and serious side effects as referred to in article 12.
- 17.2. Article 17.1 shall not apply in the event of information that is in the public domain or that the Customer has lawfully obtained, other than through IDA, or if the Customer is required to disclose

confidential information to third parties pursuant to a statutory regulation or in the context of performance of its obligations under the agreement.

## **18. Assignment**

- 18.1. Without the prior written consent of IDA the Customer may not assign its rights and/or obligations under an agreement entered into with IDA to any third parties. IDA shall not unreasonably withhold its consent.
- 18.2. IDA may assign its rights and obligations under the agreements entered into between IDA and the Customer to another (legal) entity, either affiliated with IDA or otherwise, which assignment shall release IDA from its obligations vis-à-vis the Customer. IDA shall notify the Customer of the assignment by registered letter. The Customer hereby agrees with such assignment, if any.

## **19. Consequences of Voidness or Voidability**

- 19.1. If any provision of these General Conditions should be void or nullified, the other provisions of the General Conditions shall remain in full force and effect, and the parties shall consult to agree on new provisions to replace the void or nullified provisions, observing the purport and intent of the void or nullified provisions to the extent possible.

## **20. Applicable Law and Disputes**

- 20.1. The offers, quotations, supplies and (additional) agreements, and performance thereof, as well as these General Conditions themselves, shall be governed by the laws of the Netherlands.
- 20.2. Any disputes arising as a result of, or in connection with, the agreements with Customers established within the European Union (with the exception of Denmark), which are governed by these General Conditions, or the relevant conditions themselves, as well as their construction or performance, either of a factual or of a legal nature, shall be submitted to the competent court in Amsterdam, the Netherlands, to the extent not dictated otherwise by statutory provisions. Any such disputes arising as a result of agreements with Customers established outside the European Union, as well as in Denmark, shall be resolved by arbitration in



accordance with the arbitration rules of the International Chamber of Commerce (ICC) in Paris, France. The place of arbitration shall be Amsterdam, and arbitration shall be conducted in the English language. The chairman of the ICC shall, at his option, appoint one (1) or three (3) arbitrators, provided that he will consider the interest of the matter in relation to the arbitration costs to be incurred in his decision.

## **21. Amendment and Location of the Conditions**

- 21.1. IDA may make amendments to these General Conditions, which shall take effect at the announced effective date, save with respect to any orders agreed prior to such date. IDA shall provide the Customer with the amended conditions in good time. If no effective date has been announced, any amendments shall take effect vis-à-vis the Customer as soon as it has been notified or has taken cognisance thereof, save with respect to any orders agreed prior to such date.