

# General Terms and Conditions of **GAVITA INTERNATIONAL B.V.**

## Article 1. Definitions

<b>Gavita:</b>	GAVITA INTERNATIONAL B.V., having its registered office in Rozenburg and its principal place of business at Naritaweg 8, 1437 EL Rozenburg, registered with the Chamber of Commerce under number 65832760;
<b>Buyer:</b>	Gavita's co-contracting party; any instructions issued by the Buyer to Gavita for the supply of Products;
<b>Agreement:</b>	the agreement between Gavita and the Buyer;
<b>Products:</b>	the goods and/or services offered or supplied by Gavita;
<b>Parties:</b>	Gavita and the Buyer together;
<b>Terms and conditions:</b>	these general terms and conditions of delivery, as filed with the Chamber of Commerce under number 65832760.

## Article 2. Scope

1. The Terms and Conditions apply to all legal relationships in which Gavita acts as the (potential) seller and/or supplier of Products, including all Gavita's offers in respect of Products and Orders and their acceptance by Gavita, insofar as the Parties do not expressly derogate in writing from the Terms and Conditions.
2. Gavita hereby expressly excludes and rejects the applicability of the Buyer's general terms and conditions.
3. If and insofar as the Agreement or the confirmation of the instructions contains provisions which are incompatible with the Terms and Conditions, the provisions of the Agreement will prevail.
4. If one or more provisions of the Terms and Conditions should be void or voided, the remaining provisions of the Terms and Conditions will remain in full force. Gavita will have the right to replace the void or voided provision or provisions by one or more new provisions, whereby the tenor and purport of the original provision or provisions will be taken into account if and insofar as possible.
5. In the event of inconsistencies between translations of the text of the Terms and Conditions, the Dutch text will prevail.

## Article 3. Offer, formation of the Agreement

1. All Gavita's offers, in whatever form, are free of obligation. They are not binding on Gavita and only serve as an invitation to place an Order, unless stated otherwise by Gavita.
2. All data provided in the context of an offer, including but not limited to price lists, calculations, catalogues and suchlike, will remain Gavita's property at all times and must be returned postage paid when Gavita so requests.
3. All data provided by Gavita may only be used by the Buyer for the purpose for which it was provided.
4. The Agreement will be formed only when Gavita has accepted the Order(s) placed either in writing or electronically, or has started performance. Gavita is entitled to refuse one or more Orders or to attach specific conditions to the supply of Products. The fact that Gavita has supplied Products to the Buyer with some regularity will not result in the existence of a continuing performance contract of any nature between the Parties, or in an obligation for Gavita to accept one or more (new) Orders.
5. Any additional arrangements or changes agreed afterwards, as well as verbal or written arrangements and/or promises made by Gavita's staff or made on Gavita's behalf by salespeople, agents, representatives or other intermediaries will only be binding on Gavita if and insofar as they have been confirmed in writing on Gavita's behalf by persons authorised to do so.
6. The Buyer waives its right to termination pursuant to Section 6:227c(2) of the Dutch Civil Code [hereinafter: DCC (Burgerlijk Wetboek)] insofar as it acts in the course of a business or profession.

## Article 4. Price

1. All prices specified by Gavita exclude VAT, other government levies, costs of transport, packaging, insurance and suchlike, unless the Parties have agreed otherwise in writing.
2. Gavita is entitled at all times to change the prices specified. Gavita will inform the Buyer of this in good time.

## **Article 5. Payment and security**

1. Payment must be effected within the term provided in the invoice date. Payment shall not be deemed to have been made until full payment has been received on Gavita's bank account.
2. Gavita is entitled to demand advance payments.
3. Objections against the invoice amounts will not suspend the payment obligation.
4. Payment must be made without deductions or set-offs.
5. Payment by the Buyer must be made exclusively in a manner indicated by Gavita and into a bank account to be specified by Gavita, in the currency in which the agreed prices are denominated.
6. The Buyer is not entitled to offset or suspend its payment obligations.
7. Payments by the Buyer will first be applied to settle any interest owed, subsequently to settle any judicial and extrajudicial costs incurred by Gavita and finally to settle any losses sustained by Gavita, and will only thereafter be offset against the invoice that has been outstanding for the longest period.
8. In the event that the period referred to in Article 5.1 is exceeded, all the Buyer's payment obligations will become immediately due and payable in full and Gavita will be entitled at once to suspend further deliveries to the Buyer. In addition, the Buyer will owe default interest - without any demand or notice of default being required - equal to 2% of the outstanding invoice amount for each month by which the payment term is exceeded, unless the statutory interest rate or statutory commercial interest rate is higher, in which case the higher rate will apply. The interest on the outstanding invoice amount will be calculated from the moment when the Buyer is in default until the moment when payment is effected in full.
9. All extrajudicial costs, including the costs of drawing up and sending demands, conducting settlement negotiations and other acts in preparation for possible legal proceedings, as well as all judicial costs which Gavita had to incur within reason as a result of non-performance or late performance by the Buyer, will be payable by the Buyer. The Parties will be deemed to have set these extrajudicial costs at 15% plus VAT of the principal sum at the very least, with a minimum of EUR 650.
10. If there is good reason to presume that the Buyer will not fulfil its obligations under the Agreement, the Buyer will be obliged - when Gavita so requests - to furnish adequate (additional) security as required by Gavita for the complete fulfilment of all its obligations arising from the Agreement or Agreements.
11. If the Buyer fails to comply with the request referred to in Article 5.10, Gavita will be entitled to suspend further deliveries of Products, and all amounts owed to Gavita by the Buyer will become immediately due and payable, without prejudice to any of Gavita's other rights.

## **Article 6. Delivery**

1. Delivery will be made FCA, according to the most recent version of Incoterms, by Gavita, unless the Parties agree otherwise.
2. The Buyer is obliged to take possession of the Products at the moment when they are delivered by or on behalf of Gavita, or at the moment when they are made available to the Buyer pursuant to the Agreement.
3. If the Buyer refuses to take possession or fails to provide the information or instructions necessary for delivery, Gavita will be entitled to store the Products at the Buyer's expense and risk.
4. If the Products are to be delivered by post or courier, Gavita will be entitled to pass on any delivery charges.
5. In case of international shipments, Buyer is responsible for all customs clearance, including, without limitation, securing a freight forwarder/customs broker, product classification, taxes, duties and required export/import documents.
6. The delivery period will start when (i) the Agreement has been formed, or (ii) all the formalities required for performance and delivery have been fulfilled, or (iii) all data to be furnished by the Buyer and all requisite documents have been provided to Gavita, whereby any down payment agreed must have been received by Gavita in all the aforesaid cases. In the event that this delivery period is exceeded, Article 6.7 of these Terms and Conditions will apply.
7. The delivery periods stated by Gavita will be observed as much as possible, but are only indicative and therefore do not count as specified performance deadlines as referred to in Section 6:83 of the DCC, unless Parties have agreed otherwise in writing. Gavita will only be in default when it has received written notice of default from the Buyer after the end of the agreed delivery period, while having failed to make use of a reasonable period for performance granted by the Buyer.
8. The Buyer will not be entitled to terminate or cancel the Agreement or to refuse to take possession of Products if Gavita has exceeded the delivery deadline.
9. Gavita is entitled to deliver the Products in parts. Gavita is entitled to issue separate invoices for partial deliveries.
10. Without prejudice to the provisions of Article 13 (dealing with warranties and complaints), the Buyer must mention any shortfalls in or damage to Products and/or packaging which are or may be detected upon delivery on the delivery note, the invoice and/or the transport documents, or arrange for this to be done, failing which any complaints in this respect will no longer be processed by Gavita. Gavita's records will be decisive in this context. The Buyer will contact Gavita at [service@gavita.com](mailto:service@gavita.com) with shipment and purchase order information to report a claim.

## **Article 7. Quality of the items delivered**

1. Minor variations relative to stated dimensions, weights, numbers, colours and other similar aspects do not count as shortcomings.
2. Gavita is entitled to combine one or more current Orders and/or Products ordered and to deliver them to the Buyer in one shipment.
3. Even if Gavita made statements to the Buyer before or after the purchase about the possible uses or applications of the Products, including statements about the estimated proceeds to be generated by the Products, the decision to buy the Product and thus achieve the envisaged objective is exclusively the Buyer's decision, without Gavita being liable in any way for the correctness of the statement made or the result achieved.

## **Article 8. Return shipments**

1. The Buyer will only be entitled to return Products if and insofar as Gavita has granted its prior written consent in this respect. Return shipments by the Buyer must in all cases be sent to one of the Gavita service stations, with sufficient postage paid, unless the Parties have agreed otherwise in writing.
2. Return shipments of Products supplied will in all cases be at the Buyer's expense and risk.
3. Returned Products must be newly manufactured, marketable and packaged in the original packaging. The Buyer will compensate Gavita for any missing parts or damaged packaging.
4. If the Buyer returns Products to Gavita without Gavita's consent, Gavita will never be obliged to credit the Buyer for these Products. Products returned without consent will be at Gavita's disposal.

## **Article 9. Retention of title**

1. Products supplied will remain Gavita's property until the Buyer has completely fulfilled all obligations pursuant to any Agreement or Order (as provided in Section 3:92(2) DCC), including payment of any compensation, costs, interest and suchlike.
2. Gavita will be entitled to retrieve or arrange the retrieval of Products from the place where they are kept if the Buyer fails to fulfil its obligations referred to in Article 9.1. The Buyer will fully cooperate in this. The Buyer already authorises Gavita at the present stage to access the areas being used by or for the Buyer for that purpose. All costs associated with the retrieval of Products will be payable by the Buyer. Gavita is also entitled to recover any damage to Products from the Buyer or to charge the Buyer for any decrease in the value of Products.
3. During the period referred to in Article 9.1, the Buyer will not be permitted to sell, pledge or otherwise encumber, rent out or lend Products or remove them from its control in any other way, except in the context of its normal business operations. Furthermore, the

Buyer is obliged to take out adequate insurance for the Products during this period.

4. If third parties lay claim to Products which Gavita delivered under retention of title, or the Buyer knows that third parties intend to lay claim to the aforesaid Products, the Buyer will immediately notify these third parties that Gavita holds title to these Products. In addition, the Buyer shall also notify Gavita of this in writing.
5. If the Buyer fails to fulfil its payment obligations towards Gavita or gives Gavita good reason to fear that it will fail to fulfil those obligations, Gavita will be entitled to take back the Products delivered under retention of title. The Buyer grants Gavita, or third parties to be designated by Gavita, unconditional and irrevocable permission already at the present stage to access all locations where Gavita's property is held and to take back those Products.
6. Any and all costs incurred as a result of this Article 9 will be at the Buyer's expense and risk.

## **Article 10. Intellectual property**

1. The drawings and technical descriptions made available to the Buyer prior to the Agreement will remain Gavita's property, as will the quotation. They may not be used, copied, reproduced, forwarded or brought to the attention of third parties by the Buyer without Gavita's written consent, and must be returned when Gavita so requests.
2. All intellectual property rights to (parts of) the Products delivered or otherwise made available by Gavita (including any documentation, designs, sketches, drawings and software) are vested in Gavita or in its supplier or suppliers. Insofar as (parts of) these Products are protected by any intellectual property right or by an equivalent right, the Buyer will only obtain the user rights and powers which are expressly conferred on it in this article. The Buyer only has the right to use the relevant (parts of) Products within its organisation in a manner that may be deemed customary for such an organisation.
3. The Buyer is not permitted to remove or alter any indication affixed to or in the relevant Products with regard to copyrights, patent rights, trademarks, trade names or other intellectual property rights. Gavita declares that, to the best of its knowledge, the relevant Products do not infringe any third-party intellectual property rights applicable in the Netherlands. The Buyer will immediately notify Gavita in writing to to [service@gavita.com](mailto:service@gavita.com) of any liability claim or legal action based on the assertion that the use of the relevant Products infringes any intellectual property right applicable in the Netherlands. Gavita will be entitled, but not obliged, exclusively to conduct the defence or to agree any settlement in proceedings based on an alleged infringement as referred to in this article. In that case, Gavita will bear the costs and damages determined in the court ruling or as part of the settlement.

4. Gavita accepts no liability towards the Buyer for any infringement as referred to in the previous paragraphs of this article if that infringement relates to the fact that the Buyer adjusted or altered the relevant Products, or had these operations performed by third parties, or uses the relevant Products in relation to or in combination with products which were not made available by Gavita, or used the Products in a manner other than specified in the documentation etc.
5. Gavita reserves the right to use the knowledge enhanced by the performance of the activities for other purposes, insofar as this does not involve the disclosure of confidential information to third parties.
6. The Buyer agrees to provide Gavita with any data generated by the delivered Products which may contribute to the optimization of the Products delivered by Gavita.
7. Reports, drawings and suchlike resulting from the assigned activities will accrue to or be the property of Gavita.
8. If the Buyer breaches the provisions of this Article 10, it will owe a penalty of EUR 10,000,- per breach, increased by an amount of EUR 1,000 for each day that the breach continues, without prejudice to any of Gavita's other rights. The Buyer will also owe statutory commercial interest on the penalty amount concerned from the day of the breach.

#### **Article 11. Secrecy**

1. The Buyer undertakes to observe strict secrecy in respect of the existence and contents of the Agreement and Order or Orders. In addition, the Buyer will observe complete secrecy in respect of all other knowledge, facts and information regarding Products and Gavita's business which Gavita provided to the Buyer and/or all data received from Gavita of which the Buyer knows or should know that this data is confidential and must remain secret, unless this data must be disclosed pursuant to a statutory obligation. The Party receiving confidential data will use this data only for the purpose for which it was provided. Data will in any case be regarded as confidential if it was marked as such by either Party.
2. All data, specifications or other information made available to the Buyer for the performance of the Agreement will be regarded as confidential information.
3. The Buyer must immediately return information, as well as copies or other reproductions thereof, to Gavita when the latter so requests.
4. If the Buyer breaches the provisions of Article 11.1, it will owe a penalty of EUR 25,000,- per breach, without prejudice to any of Gavita's other rights. The Buyer will also owe statutory commercial interest on the penalty amount concerned from the day of the breach.

#### **Article 12. Cancellation**

1. If the Buyer wants to cancel an Agreement after it has been formed, 10% of the price of the Order (including VAT) will be charged as cancellation charges, without prejudice to Gavita's right to full compensation, including compensation for lost profit.
2. If, having cancelled the Agreement, the Buyer refuses to take possession of the Products already procured by Gavita, such as Products and materials, whether treated or processed or not, the Buyer will be obliged to compensate Gavita for all associated costs.
3. Notice of cancellation must be given by registered letter.

#### **Article 13. Warranties and complaints**

1. Gavita warrants, during a period of three months from the moment when the delivery period commences in accordance with Article 6.6, that the Products it supplies are free from defects due to manufacturing faults and/or faulty materials, comply with the customary requirements and standards that may reasonably apply to them at the moment of delivery and are suitable for the purpose for which they are intended in case of normal use. Whenever the Products are used, the Buyer must itself verify whether this use is appropriate in the specific situation and meets the relevant conditions.
2. If the warranty provided by Gavita concerns a Product manufactured by a third party, this warranty provided by Gavita will not extend beyond the warranty under this Article 13, on the understanding that this warranty will likewise not extend beyond the warranties provided or to be provided by that third party in respect of the relevant Product, unless the Agreement stipulates otherwise.
3. Gavita will not be bound by warranties provided by third parties in respect of a Product. If the Buyer can hold a third party liable, whether directly or indirectly, on the basis of warranties provided by this third party in respect of a Product, that Buyer will not have the right to hold Gavita liable on the basis of the warranties provided by Gavita as referred to in this Article 13 in respect of that Product.
4. Warranties laid down in the confirmation of the instructions will prevail over the warranties referred to earlier in this Article 13.
5. Gavita will remedy defects falling under this Article 13 by repairing or replacing the defective part, this being at Gavita's discretion, on the Buyer's premises or elsewhere, or by sending a replacement part. Within the warranty period, the costs of material will be payable by Gavita. Gavita is not responsible for any transport, labour, traveling costs and accommodation expenses.

6. If Gavita replaces parts in fulfilment of its warranty obligations, the old replaced parts will become Gavita's property and these old replaced parts must be returned to Gavita by the Buyer.
7. Where a defect in (a part of) the Product has been remedied, Gavita will be liable for defects in the repaired or replaced part under the same Terms and Conditions as those which apply to the original Product for the remaining period of liability for the original product. No new liability period shall therefore apply to repaired or replaced parts. The remaining parts of the Product are not subject to an extension of the liability.
8. Parts which by their nature may have a working life of less than one year, such as lamps, resistors and other electronic components, will not be covered by the warranty, unless Gavita can itself enforce warranty claims towards its supplier or suppliers in respect of those parts.
9. No warranty is issued in respect of parts sold separately. Gavita will not be liable for losses arising from parts sold separately.
10. Liability under the warranty referred to in this Article 13 will be limited to repair of the defects in materials occurring within the warranty period.
11. Any form of warranty will cease to apply if a defect was caused by or arises from inexpert or improper use, incorrect storage, transport or maintenance by the Buyer and/or by third parties if the Buyer or third parties, without Gavita's written consent, made or tried to make alterations to the Product or connected other products to it which should not be connected to it, or if the Products were treated or processed in a manner other than that prescribed. Likewise, the Buyer will be unable to claim under the warranty if the defect was caused by or is the result of circumstances beyond Gavita's control, including weather conditions such as, but not limited to, extreme rainfall or temperatures.
12. Upon delivery, the Buyer is obliged to examine the Products as to whether they are sound and undamaged, and whether the quality and quantity of the items delivered correspond to what was agreed.
13. If the Buyer was shown a model, this will be presumed to have been shown as an indication only without the Product having to comply with this, unless it is expressly agreed that the Product will be identical to this model.
14. The Buyer must mention any shortfalls in or damage to Products and/or packaging which are or may be detected upon delivery on the delivery note, the invoice and/or the transport documents, or arrange for this to be done, failing which any complaints in this respect will no longer be processed by Gavita. Gavita's records will be decisive in this context.
15. Furthermore, all complaints relating to immediately visible defects must be submitted to Gavita in writing to [service@gavita.com](mailto:service@gavita.com) within 2 days of the delivery of the Products, whereby the nature and extent of the defects must be stated.
16. All complaints relating to defects not immediately visible must be submitted to Gavita in writing to [service@gavita.com](mailto:service@gavita.com) within 8 days of the moment when such defects should reasonably have been detected, whereby the nature and extent of the defects must be stated.
17. Complaints relating to invoices must be submitted to Gavita in writing to [service@gavita.com](mailto:service@gavita.com) within 8 days of the invoice date.
18. After the expiry of the aforesaid periods, the Buyer will be deemed to have received the Products in good condition. Furthermore, the Buyer's right to complain will lapse and complaints will no longer be processed by Gavita.
19. If a complaint is made in time pursuant to this Article 12, the Buyer will remain obliged to take possession of and pay for the Products bought. If the Buyer wants to return defective Products, this must be done with Gavita's prior written consent and in the manner indicated by Gavita.
20. Each delivery may be regarded as a stand-alone delivery, which means that complaints relating to a particular delivery cannot affect any other delivery and/or any commitment or commitments resulting from that other delivery for the Buyer.

#### **Article 14. Maximum liability**

Liability pursuant to the warranty referred to in Article 13 will never exceed the original invoice value of the Products concerned.

#### **Article 15. Liability**

1. Gavita will only be liable for losses sustained by the Buyer in the event of wilful misconduct or gross negligence on the part of Gavita or its senior staff.
2. Gavita will not be liable for losses caused by its junior staff and by third parties engaged for the performance of the Agreement.
3. Gavita will not be liable for Products damaged by accident, abuse, misuse, modification, negligence, alteration or misapplication nor will Gavita be liable for defects which are caused by faulty packaging for the return of the products or careless acts. Products damaged as a result of the foregoing or not purchased from Gavita may not be returned to Gavita for any reason.
4. Gavita will not be liable for defects due to faulty maintenance, incorrect installation or faulty repair by the Buyer or to alterations carried out without the Gavita's Written consent nor will Gavita be liable for normal wear and tear nor for deterioration.
5. Gavita will not be liable for any material damage caused by the Product after delivery and while in the possession of the Buyer.

6. Gavita's liability only applies when the products are used under normal circumstances of a growth light installation with regard to power supply and frequency. In this respect, Gavita refers to the official guidelines for total energy plants and grow lights installations for horticultural cultivation PWK (Total Energy Project Bureau) report for total energy plants and assimilation lighting for horticultural cultivation dated September 1990 and the applicable Dutch installation standards NEN1010 and NEN3140 and Energiened publications. The growth light installation must be provided with a qualified resettable hour counter by the end user. The installation must be provided with a 3 phase monitoring relay which switches at: i) -10% lower under power, ii) +10% higher over power, iii) Interruption of any of the 3 phases. For example ABB CM-PVE or identical. The 3 phase monitoring relay must be manually via a press button switched on again after the installation is thoroughly checked. Group protection. The installation needs to be secured via automatic switches, min. C characteristic. The automatic switches must switch off the phases group wise. In case Gavita has provided a light calculation plan, the explanation with regards to this plan applies. A copy of this explanation shall be enclosed with the Contract. Any explanation in this light calculation plan is given diligently and to the best of Gavita's knowledge, but without any warranty.
7. Subject to provision 14, Gavita will not be liable for losses sustained by the Buyer towards third parties on account of or in connection with the nature of or defects in Products supplied, or the fact that Products supplied do not possess the properties which the Buyer could reasonably expect pursuant to the Agreement.
8. Gavita will never be liable for consequential losses sustained by the Buyer. Among other things, consequential losses include lost profit, losses suffered and costs incurred, as well as missed orders and missed savings, losses due to interruptions of production or operations and stagnation.
9. The limitations of liability set out in this article will not apply if and insofar as Gavita's liability for the losses concerned is insured and a payout is made under the relevant insurance policy. Gavita is not obliged to enforce its rights under the insurance policy if it is held liable by the Buyer.
10. Gavita stipulates all statutory and contractual defences which it can invoke in order to shield itself from liability towards the Buyer, also for the benefit of its junior and senior staff for whose conduct it would be liable pursuant to the law.
11. Gavita may engage third parties for the performance of the Agreement and will be entitled at all times to invoke any limitations of liability on the part of those third parties in its turn towards the Buyer.
12. The provisions of this article, whether in isolation or in conjunction with the previous article, do not affect Gavita's statutory liability under mandatory law.

## **Article 16. Indemnification**

1. The Buyer indemnifies Gavita against any and all breaches of these Terms and Conditions and any violation of any applicable law.
2. The Buyer indemnifies Gavita against all third-party claims in respect of intellectual property rights to materials or data provided by the Buyer that are used in the performance of the Agreement.
3. If the Buyer provides Gavita with information carriers, electronic files or software, etc., it guarantees that the information carriers, electronic files or software are free from viruses and defects.
4. The Buyer indemnifies Gavita against all third-party claims on account of product liability due to a defect in a product which the Buyer supplied to a third party and which incorporated Products supplied by Gavita, except if and insofar as the Buyer demonstrates that the losses were caused by the Products supplied by Gavita.

## **Article 17. Termination/suspension**

1. Without prejudice to Gavita's other rights, Gavita will be entitled, without any notice of default and without any obligation to pay compensation, to terminate all or part of the Agreement and/or Order or to suspend (further) performance of the Agreement, if:
  - i. the Buyer fails to fulfil its obligations towards Gavita under the Agreement, or to do so properly or in time, even if this is due to reasons beyond its control;
  - ii. Gavita has learned of circumstances which give it good reason to fear that the Buyer will fail to fulfil its obligations, or will fail to do so completely or in time;
  - iii. the Buyer is declared bankrupt, granted a moratorium or placed under guardianship, or an application to this end is made, or the Buyer is dissolved or its business is ceased or wound up;
  - iv. Gavita is prevented from proper performance of all or part of the Agreement, whether temporarily or permanently, due to one or more circumstances beyond Gavita's control;
  - v. the Buyer, upon concluding the Agreement, was requested to furnish security for the fulfilment of its obligations under the Agreement and this security has not been furnished or is inadequate.
2. Furthermore, Gavita will be entitled to terminate or arrange the termination of the Agreement if circumstances occur which are such that performance of the Agreement becomes impossible or can no longer be required according to the standards of reasonableness and fairness, or if circumstances occur otherwise which are such that unaltered maintenance of the Agreement cannot be expected within reason.

3. If the Agreement is terminated, Gavita's claims against the Buyer will become immediately due and payable. If Gavita suspends the fulfilment of its obligations, it will retain its claims pursuant to the law and the Agreement.
4. Gavita will always be entitled to claim compensation.

#### **Article 18. Force majeure**

1. Gavita's duty to fulfil its obligations will be suspended during the period in which it is unable to perform the Agreement due to force majeure.
2. A situation in which performance is seriously obstructed is considered equivalent to inability to perform the Agreement.
3. In these Terms and Conditions, force majeure is understood to mean, in addition to the meaning assigned to it by law and case law, all external causes, whether foreseen or unforeseen, which are beyond Gavita's control but which prevent Gavita from fulfilling its obligations.
4. Force majeure includes, but is not limited to, the following circumstances: a shortage in the market of necessary raw materials, materials and/or workers, industrial disputes, war, war risks, civil war, riots, fire, earthquakes, water damage, floods, pandemics, epidemics, strikes, factory sitings, lock-outs, import and export restrictions, government measures, equipment breakdowns, and non-delivery or late delivery of the necessary raw materials and materials, water and/or power to Gavita.
5. In addition, force majeure includes circumstances as referred to in the previous paragraph which occur at the business of third parties from which Gavita procures and receives raw materials, materials, services, research reports, samples, calculations, etc.
6. Force majeure also includes the situation in which the circumstances referred to in Article 17.3 occur at the business of third parties in relation to the storage or transport of goods, whether performed by Gavita or otherwise.
7. If the suspension of Gavita's performance of (part of) the Agreement due to force majeure lasts more than three months, both Parties will have the right to declare (the remaining part of) the Agreement terminated. In that case, neither Party will be obliged to pay any compensation. Any advance payments will be refunded, on the understanding that the Buyer will pay for the activities performed by Gavita until the day of termination, or (as the case may be) these activities will be settled in accordance with the agreed invoice amount.

#### **Article 19. Sale and use restrictions**

1. Buyer may only i) promote and resell the Products in the course of a retail business operated from (a) offline store locations leased or owned solely by Buyer and/or (b) websites with top level domains solely owned and operated by Buyer to consumer, commercial, or

other end user purchasers (an "Authorized Dealer"), ii) promote and resell the Products for installation or application by the Buyer in the course of providing a bona fide professional service to a third party for a fee ("Authorized Installer"), iii) use the Products for their intended purpose in its own commercial operation other than cannabis operation, unless such cannabis operations are in compliance with all applicable laws, rules and regulations, and possess and maintain in good standing all required licences that authorize such cannabis operation to grow, harvest, process, dry, trim, cure, store, and/or package cannabis ("Commercial Producer"), and/or iv) promote and resell the Products in the course of a wholesale business solely owned and operated by Buyer to end user purchasers for use in such purchaser's own commercial operation if, and only if, and so long as, Buyer is approved and authorized as a wholesaler by Gavita in writing (an "Authorized Wholesaler"). Cooperative or group buying with persons or businesses that are not under common ownership is strictly prohibited. Buyer may not sell or provide Products sold or provided by Gavita to any party Buyer knows or reasonably should know intends to further distribute or resell the Products.

#### **Article 20. Compliance with laws**

1. Buyer shall comply with all local laws and regulations applicable to its operation and the resale and/or use of the Products, including, without limitation, maintaining all licenses and permits in good standing with the relevant governmental authority.
2. Buyer warrants that it complies with all labor laws, including laws related to forced labor, slavery and human trafficking, of the country or countries in which Gavita is doing business.
3. Gavita prohibits bribes on its behalf or related to its business. Buyer warrants and promises that, in connection with its performance under this Agreement, it has not and shall not make any bribes. For the purposes of this paragraph, a 'bribe' is giving or offering to give anything of value, directly or indirectly, to any government or non-government official for the purpose of influencing any act, decision or any inaction of such official. The Buyer shall immediately take steps to remedy any violations of this provision, including notifying Gavita promptly of such violations, and taking any steps requested or required by Gavita. In the event of any such violation, Gavita shall have the right to terminate the Agreement.

#### **Article 21. Other provisions**

1. Since Gavita's policy is aimed at continuous improvement of its Products, Gavita reserves the right to alter its models when it considers this to be justified.

2. Any derogations from and addition to the Agreement, the Order and the Terms and Conditions will only be valid if they have been agreed in writing.
3. The Buyer is not permitted to transfer the Agreement or any rights and obligations arising from it to third parties without Gavita's express prior written consent. Gavita is entitled to transfer its rights and obligations under the Agreement to a third party. The Buyer grants its permission for this already at the present stage.

#### **Article 22. Applicable law and competent court**

1. The offering of Products, Orders, the Agreement, the Terms and Conditions and all other associated legal relationships between Gavita and the Buyer are governed by Dutch law.
2. All disputes arising between Gavita and the Buyer from or in relation to (the execution of) Orders, the Agreement, the Terms and Conditions and all associated legal relationships shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.