

# General terms & conditions

JANSSENS

## Article 1 Applicability

1.1 These general terms and conditions apply to and form an integral part of all agreements concluded between Janssens NV (hereinafter referred to as '*Janssens Plc*') and any third party (hereinafter referred to as '*Customer*'), hereinafter collectively referred to as '*the Parties*'.

1.2 Before any agreement is concluded, these general terms and conditions were provided to the Customer in a timely manner.

1.3 Deviations from these general terms and conditions can only be made in writing and only apply to the specific agreement for which the deviation has been agreed upon and can never be invoked by the Customer as acquired in subsequent or other agreements.

Any general or special conditions of the Customer can never be applied.

1.4 Whenever possible, the provisions of the agreements to which these general terms and conditions apply hereafter called '*the Agreement*' and these general terms & conditions, shall be interpreted so as to be valid and enforceable under applicable law.

However, if one or more provisions of the Agreement or these general terms & conditions, is found to be invalid, illegal or unenforceable (in whole or in part), the remainder of this provision and of the Agreement and these general terms & conditions shall not be affected and shall continue in full force and effect as if the invalid, illegal or unenforceable provision(s) had never existed. Moreover, in this case, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision which embodies as closely as possible the purpose of the invalid, illegal or unenforceable provision(s).

## Article 2 Data

Offers, quotations, price quotations and price lists and all other information supplied by Janssens Plc prior to the conclusion of the Agreement are submitted to the Customer as a non-binding guidance only, are not binding and constitute approximate indications only, and can never affect the liability of Janssens Plc.

## Article 3 Conclusion of the agreement

3.1 Offers, quotations, price quotations and price lists of Janssens Plc are valid for 60 calendar days, unless another period of validity is provided.

These offers, quotations, price quotations and price lists shall mention the contact data of Janssens Plc, the essential characteristics of the goods and/or services offered, the price, any delivery costs and the conditions for the possible return of the goods.

Janssens Plc reserves the right at any time to change, reduce or expand the list, range or portfolio [or branding] of products and/or to replace previous versions of a product with a newer version of the same product, upon communication of this information to the Customer, without the creation of any rights on the part of the Customer or any liability on the part of Janssens Plc.

Janssens Plc also reserves the right to make changes to the design and form of goods and/or services already ordered during the delivery period, provided that these are not fundamentally altered as a result. Janssens Plc reserves the right to always deliver the latest version.

- 3.2** The Agreement shall only be entered into in writing; it shall only be concluded at the time of digital signature of the electronic order form made available by Janssens Plc via its website, after which the Customer shall also electronically transmit the completed electronic order form to Janssens Plc.

After digital signing by the Customer, both the time stamp of the signature - displayed in Greenwich Mean Time (GMT) - and the IP address of the Customer (signatory) are mentioned on the quotation accepted by the Customer, after which the Customer receives a 'Confirmation of Offer' by e-mail. This e-mail contains a copy in PDF of the quotation with signature.

This plain electronic signature is in accordance with Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

- 3.3** Additions and amendments to a pre-existing agreement can only be made in writing.

#### **Article 4 Prices**

- 4.1** All sales prices payable by the Customer are exclusive of import duties, VAT and any similar sales tax, which shall be paid by the Customer in addition to the sales price.

Between the time when the Agreement is signed by the Customer and the time when (a part of) the price is payable, the price from the original quotation may be revised according to the evolution of material prices.

This is done on the basis of the following price revision formula:  $P$  (new price) =  $p$  (original price)  $\{0.20 + 0.80 \times (\text{industrial producer price index at the time of the revision} / \text{industrial producer price index in force in the month of signing the Agreement})\}$

The industrial producer price index (output price index: global market) is used (<https://statbel.fgov.be/en/themes/indicators/prices/output-price-index-industry>).

- 4.2** Measures relating to transport costs, taxes, customs duties or fluctuations in exchange rates, which may increase the cost price, are also added to the agreed cost price.

#### **Article 5 Delivery**

- 5.1** Delivery terms specified by Janssens Plc are only given by approximation and are not binding to Janssens Plc.

- 5.2** The periods specified in Article 5.1 shall in any event only commence from the acceptance of the (online) order by Janssens Plc.

In the event of interim changes to the agreement, non-compliance with the terms of payment by the Customer or delay in the performance of the agreement due to circumstances attributable to the Customer, the term for delivery, service or repair shall be extended accordingly, without prejudice to any other right of Janssens Plc pursuant to these general terms and conditions or applicable law.

- 5.3** Delivery shall take place Ex Works (Incoterms 2020), unless otherwise agreed in writing. If the delivery is not Ex Works, all additional costs related thereto shall be borne by the Customer. The Customer is obliged (at his own expense) to take all measures necessary for delivery ready for use. The risk passes to the Customer at the moment Janssens Plc has notified that the goods are at the Customer's disposal. The risk of storage, loading, transport and unloading always rests with the Customer. The Customer shall insure himself against these risks. The Customer is obliged to collect

the goods within one week of the invitation to collect from Janssens Plc, failing which the Customer shall be obliged to compensate the costs and damage suffered by Janssens Plc, without prejudice to any other right of Janssens Plc on the basis of these general terms and conditions or applicable law.

**5.4** The Customer is obliged to examine, upon delivery, whether the goods are in accordance with the agreement, undamaged and without defects. Complaints regarding visible defects must be notified to Janssens Plc by registered letter at the latest 7 calendar days after receipt of the goods. However, the signing by the Customer or by the third party appointed by him of the delivery note for the goods for the services shall always be considered as an immediate and irrevocable acceptance.

**5.5** Except in the event of wilful misconduct on its part, Janssens Plc may under no circumstances be held liable for any damage whatsoever in the event of a delay in delivery, service or repair of less than 60 calendar days.

Exceeding the period of 60 calendar days referred to in the above paragraph may at the most give rise to payment by Janssens Plc of a fixed compensation of EUR 10,00 (ten) per calendar day of delay, with a maximum of 5 (five) per cent of the price.

Such compensation shall only be due for the period after a notice of default has been served by registered letter by the Customer.

Janssens Plc shall provide the Customer, where useful and only for standard Products, with sales literature, service manuals, etc. in English. The Customer will, without any intervention of Janssens Plc, assist his clients concerning the installation of the Products and shall employ staff with specialised knowledge of or technical training regarding the Products and their installation.

## **Article 6**    **Payment**

**6.1** Only payment directly to Janssens Plc will be valid.

Each payment will be charged against the oldest past due invoice, and first against interest and costs due.

**6.2** The Parties agree that timely payment by the Customer of invoices relating to the Products is essential to the continuation of the Agreement, and in addition to and without prejudice to the accrual of interest on all late payments as of the due date at ten per cent (10 %)/year, non-payment or late payment by the Customer shall constitute a material breach of the Agreement.

In the event of non-payment on the due date, the unpaid amount shall automatically and without notice be increased by interest in accordance with the Belgian Act of 2 August 2002 on late payment in commercial transactions, as well as a fixed compensation of 10% of the amount still due, with a minimum amount of EUR 250,00 and a maximum of EUR 10,000.00.

Also, in such case, all possible price reductions and possible discounts will automatically lapse.

**6.3** Moreover, in the event of non-payment on the due date, Janssens Plc reserves the right to suspend the performance of its obligations under the agreement, as well as all other pending orders, until the outstanding balance has been paid in full, without this being a reason for the Customer to claim damages, or to invoke any other sanction provided for in article 5.83 Belgian New Civil Code.

The parties explicitly agree that they consider all agreements concluded separately between them as one and indivisible as regards the application of the current non-performance exception.

- 6.4** The non-payment on the due date of a single invoice, in whole or in part, shall make the balance due of all other, even non-due invoices immediately and automatically payable by operation of law and without the need of prior notice of default.
- 6.5** If the Customer requests to invoice a third party and Janssens Plc agrees thereto, the Customer shall always remain jointly and severally liable towards Janssens Plc.
- 6.6** All remarks and objections with regard to an invoice of Janssens Plc must be notified to Janssens Plc by registered letter, stating the reasons, within 8 calendar days after the invoice has been sent, failing which the invoice shall be considered as definitively accepted by the Customer.

## **Article 7 Termination and dissolution**

- 7.1** If, after notice of default and within the reasonable period stipulated therein for remedy, the Customer does not fulfil any obligation arising from the agreement or these general terms and conditions, or if it is clear that the Customer, even after having been given notice of default within a reasonable period to fulfil his obligations, will not fulfil his obligations in due time, as well as in the event of seizure of the Customer's goods, dissolution with liquidation, bankruptcy, or the placing of the Customer under provisional administration, or a similar situation, Janssens Plc shall be entitled to terminate the agreement without any obligation to pay compensation or prior notice of default and without judicial intervention, or to suspend the further performance thereof. In these cases, all amounts still payable to Janssens Plc shall become immediately due and payable, without prejudice to any other rights Janssens Plc may have pursuant to, inter alia, these general terms and conditions or applicable law. All costs associated with the termination and the retrieval of the goods shall be borne by the Customer.
- 7.2** Termination clause: in the event of cancellation of the order by the Customer, for whatever reason other than a material breach by Janssens Plc, the latter shall owe Janssens Plc a fixed compensation of at least 20 % (for series goods) and at least 60 % (for individualized goods) of the agreed price, as compensation for the damage suffered by Janssens Plc as a result of the aforementioned cancellation. To this end, Janssens Plc shall retain any advance payments made by the Customer. Moreover, Janssens Plc expressly reserves the right to claim additional compensation if the damage resulting directly and/or indirectly from the cancellation is higher.
- 7.3** Notice period: The notice period is one month during the first year of the agreement. After the first year, the period of notice shall be increased by one month for each year started, up to a maximum of six months.

The party wishing to terminate the agreement without observing the above-mentioned notice period shall undertake to pay the other party a termination fee corresponding to the usual fee for the duration of the above-mentioned notice period and calculated on the basis of the monthly average of the commissions earned during the 12 months preceding the termination of the agreement.

## **Article 8 Force majeure and hardship**

- 8.1** There is force majeure and/or hardship on the part of Janssens Plc when the performance of its obligations is reasonably prevented or seriously aggravated by circumstances of a factual, legal or other nature, whether or not foreseeable.

Without this list being exhaustive, the following shall in any event be considered force majeure and/or hardship: natural disasters, (civil) war and riots, also outside Belgium, epidemics and pandemics, fire, accidents, strikes, embargoes or other disruptions at Janssens Plc or its suppliers, delays in the supply of goods, discontinuation of the production of the ordered model or default c. q. remain of suppliers with respect to goods ordered or work assigned by Janssens Plc, transport difficulties, theft or embezzlement from the warehouses of Janssens Plc or its workshops, as well as any other circumstance, as a result of which the normal course of Janssens Plc's business is obstructed.

**8.2** If such force majeure and/or hardship occurs, the affected obligations of Janssens Plc shall be suspended.

If it is established that such situation will last more than 90 calendar days or has lasted more than 90 calendar days, each party may dissolve the agreement by registered letter.

**8.3** Janssens Plc can never be held liable for any damage suffered by the Customer due to force majeure and/or hardship on the part of Janssens Plc.

**8.4** The Customer expressly waives his right to invoke Article 5.97 §2 (new) of the Belgian Civil Code to obtain a unilateral price reduction during the term of the agreement.

## **Article 9 Contractual guarantee**

**9.1** Janssens Plc grants a purely contractual guarantee to the Customer of the goods afflicted with (minor) hidden defects that do not fall within the scope of articles 1792 and 2270 (old) of the Belgian Civil Code only as regards the following parts supplied by it:

- 10 years on quality and alloy of the aluminum;
- 10 years on the paintwork/powder coating in case of detachment, peeling, flaking off, corrosion, chalking, discoloration, and loss of gloss in which the predetermined tolerances are exceeded in accordance with Qualicoat or Qualinod specifications.
- 10 years on adhesion, retention and tension of glazing rubbers.
- 10 years on manufacturing defects in the glass.
- 5 years on PVC parts and their UV resistance.
- 1 year on moving parts such as wheels, hinges, rotating and sliding parts.

No warranty provisions apply to other items than mentioned above.

**9.2** The guarantee mentioned in article 9.1

- enters into force at the time of delivery or collection
- is only valid if the construction was assembled in accordance with the rules of art, subjected to normal use, and if all usual and prescribed maintenance is followed.
- only comes into effect once alle invoices have been paid in full
- is granted exclusively for the benefit of the Customer (and not for the benefit of its customers); it is the Customer's sole responsibility and initiative to establish its own warranty conditions, which may differ, for its own customers.
- is non-transferable.

The warranty and liability of Janssens Plc shall in any event exclude damage arising from improper use or installation, including but not limited to:

- insufficient or incorrect information, instructions, specifications, measurements or other input provided by the Customer;
- damage caused by improper storage of the goods, which must be stored in a dry location, protected from direct sunlight and any form of moisture; moisture or condensation occurring within fully covered packages, which may result in glass corrosion (white markings on the glass) or imprinting on painted surfaces;
- damage caused by installing the greenhouse on a foundation with insufficient load-bearing capacity;
- installation not carried out in accordance with the installation manual or the rules of good workmanship;
- incorrect anchoring of the greenhouse to a wall, on a wall, or to the foundation. Anchoring materials are not included in the greenhouse kit and are expressly excluded from this warranty;

The warranty and liability of Janssens Plc shall further exclude damage resulting from non-compliance with other prescribed instructions, including but not limited to:

- unlawful, improper, negligent or careless use of the goods and/or services supplied;
- damage caused by failure to comply with operating or usage instructions, or any other contractual breach or shortcoming on the part of the Customer or its clients;
- maintenance that has been carried out improperly, insufficiently, or not in accordance with the Terms of Use and Maintenance, found at <https://docs.janssens.be/usemaintenance.pdf>
- water seepage
- intentional damage or negligence

The warranty and liability of Janssens Plc shall also exclude damage caused by external factors, including but not limited to:

- damage caused by third parties, vandalism, or exposure to aggressive environmental conditions, including corrosion or discoloration in coastal areas;
- damage caused natural elements, accidents, force majeure events or weather conditions (e.g. hailstorms, storms, whirlwinds, extreme weather conditions or natural disasters (in such cases, the Customer is advised to contact its insurer));
- damage resulting from normal wear and tear.

The warranty shall not apply to customised or non-standard products, including:

- materials or structures that deviate from the standard Janssens product range at the request of the Customer;
- products or components specifically selected, supplied or incorporated at the Customer's request;
- any alteration, modification or repair of the goods without the prior written consent of Janssens Plc.

**9.3** The warranty provided for in the present article shall only include the delivery of the necessary replacement materials without any obligation to install, dismantle or repair or otherwise compensate the Customer in any manner whatsoever.

Under the present contractual guarantee, Janssens Plc can never be held liable for derived costs such as assembly, transport, fines, storage and/or third-party costs.

Without prejudice to the rules of mandatory law and public policy, Janssens Plc's liability is in any event excluded for indirect or consequential damage (such as, for example (but not exhaustively) loss of expected profit, decrease in turnover, increased operational costs).

- 9.4** In the event of replacement by Janssens Plc of defective goods or parts thereof, the Customer shall be deemed to have unconditionally and irrevocably waived the goods and/or parts in favor of Janssens Plc, without the Customer being entitled to any compensation whatsoever; upon first request by Janssens Plc, the Customer shall, at their own expense, make the replaced good or component available to Janssens Plc and return it to them

In case of replacement of a defective good or parts thereof by a new goods or new parts, the same conditions regarding guarantees and complaints on this new good or new parts shall apply as those mentioned in this article, without, however, any extension of the original warranty term.

- 9.5** Complaints claiming a guarantee granted by Janssens Plc are only admissible if they are formulated within a period of 7 calendar days from the moment such defects were discovered or should reasonably have been discovered by the Customer and within the guarantee period.

Any warranty claim must be submitted through the dealer portal or by email to [support@janssens.be](mailto:support@janssens.be), stating the original order number, providing a clear description of the issue, and including all relevant supporting documentation and/or photographs.

In the event of formulation of a complaint by the Customer, the Customer shall be obliged, at Janssens Plc's first request, to keep the goods or the defective part and to send it to Janssens Plc at its expense.

After expiry of the aforementioned periods, the goods shall be deemed to have been received in good condition and any right of complaint of the Customer shall lapse.

## **Article 10** Liability

- 10.1** Except for the guarantee expressly and contractually granted by it, Janssens Plc may only be held liable for damage resulting from willful intent on its part or on the part of its appointees, or from an error that has adversely affected the life or physical integrity of a person.
- 10.2** Any liability of Janssens Plc pursuant to this article shall in any event be limited, at Janssens Plc's discretion, to the replacement or repair of the defective goods, free of charge.
- 10.3** Without prejudice to the rules of mandatory law and public order, Janssens Plc's liability is in any event excluded for indirect or consequential damage (such as (but not limited to) loss of expected profit, decrease in turnover, increased operational costs).
- 10.4** Liability vis-à-vis third parties ensuing from the use of goods delivered by Janssens Plc shall always be borne by the Customer, who shall fully indemnify Janssens Plc in this respect and shall take out insurance to cover it.

**10.5** Janssens Plc can in no way whatsoever guarantee the accuracy or completeness of the information provided on its website.

Janssens Plc therefore accepts no responsibility for any damage whatsoever resulting from the application, incompleteness, or inaccuracy of the information on its website.

The information on the website is of a general nature. The aforementioned information is not adapted to personal or specific circumstances, and can therefore never be considered as personal, professional or legal advice to the user of this website.

Janssens Plc's website may contain backlinks to other websites.

Likewise, Janssens Plc bears no responsibility or obligation for the information or content of websites linked to its website.

A link to another website is for the convenience of the user only. Browsing to and use of other sites linked to this website is always at the user's risk only.

Janssens Plc reserves the right to modify or remove any backlink from its website at any time.

**10.6** Notwithstanding Article 6.3, §§1 and 2 of the New Belgian Civil Code, the Parties may not bring any non-contractual liability claim against each other or each other's auxiliaries for damages resulting from an alleged breach of a contractual obligation.

In such case, only a contractual claim may be brought by one Party against the other.

## **Article 11 Intellectual Property Rights**

**11.1** The Customer agrees that all trade names, trademarks, domain names, copyrights, trade secrets (including Product design), and all other intellectual property rights related to the Products are and shall always remain the exclusive property of Janssens Plc.

Any use by the Customer of any such trade name or trademark, domain name, word, logo, sign, or other intellectual property right related to the Products, whether in connection with the Customer's trade name, corporate name or otherwise, requires the prior consent of Janssens Plc.

**11.2** The Customer undertakes to promptly notify Janssens Plc of any act of unfair competition, illegal trade practices or piracy, or infringement of intellectual property rights that the Customer may discover. The Customer shall not take any action with regard to such acts without the prior written consent of Janssens Plc.

**11.3** The contents of Janssens Plc's website, including but not limited to texts, photographs, graphic illustrations, drawings, trade names and logos, are protected by copyright, trademark law and/or any other intellectual property rights.

The information on this website may only be used by the user.

In accordance with the aforementioned rights, the user is not permitted to transfer, reproduce, process or distribute this information without the express prior written consent of Janssens Plc.

The intellectual property rights related to the software, required for managing the content of the website, belong exclusively to Janssens Plc or a third party with whom Janssens Plc has concluded an agreement in this respect.

Janssens Plc shall be entitled to use the references and images of the works performed by it in its publicity, both descriptive and visual.

## **Article 12 Retention of title**

**12.1** The goods remain the property of Janssens Plc until full payment has been made of the price and any costs. As long as the payment has not been made in full, the Customer is not entitled to alienate or encumber the goods, to pledge, to hire out, to pledge, or to hand them over on loan to third parties, or to take them out of his business in any way. Nor is the Customer entitled to alter the goods by conversion, accession or mixing. The Customer is obliged to inform Janssens Plc in writing within 24 hours of becoming aware of it, if third parties assert (alleged) rights to or take measures with regard to the goods subject to retention of title.

In such cases, Janssens Plc shall be entitled to temporarily or permanently remove the goods from the Customer's premises, or have them removed.

**12.2** If the Customer fails to fulfil any payment obligation, Janssens Plc is entitled to repossess the goods that are still subject to retention of title. The Customer is obliged to provide all cooperation to this end, including access to the place where the goods are located. Janssens Plc is not obliged to reimburse the Customer for any costs incurred in connection with the aforementioned restitution.

All costs related to the exercise of the retention of title, including transport and storage costs, shall be borne by the Customer. After Janssens Plc has removed the goods from the Customer's premises, the Customer shall be credited with an amount equal to the purchase price applicable on the day of removal, but not exceeding the amount originally charged to the Customer, minus all costs incurred by Janssens Plc in connection with the exercise of its retention of title.

**12.3** As long as the goods are the property of Janssens Plc, the Customer shall be obliged to insure them against fire, theft, third-party claims, full or partial loss due to any cause including force majeure and own risk, and to transfer his rights ensuing from the policy to Janssens Plc.

**12.4** Janssens Plc reserves the right to register its retention of title in the national pledge register at the expense of the Customer.

## **Article 13 Privacy**

Janssens Plc undertakes to process the Customer's personal data with due care and in accordance with the applicable privacy regulations, and to do so only for the purposes and legal grounds described in its privacy policy as found at <https://docs.janssens.be/privacypolicy.pdf>

The Customer has the right to submit a request to inspect, correct, delete, transfer his personal data or request the withdrawal of his consent or objection to the processing of his personal data to Janssens Plc via the e-mail address: [info@janssens.be](mailto:info@janssens.be).

Complaints submitted to Janssens Plc will be processed within a period of 8 calendar days from the receipt of the complaint. If the processing of the complaint requires more time, the Customer will be sent an acknowledgement of receipt within the aforementioned period of 8 calendar days.

## **Article 14 Confidentiality**

**14.1** The Parties undertake to keep confidential and not to divulge to any third party for the duration of the Agreement as well as at any time thereafter any confidential information, reports, records, or

other restricted documents concerning the other Party or its activity which they have received or obtained in the framework of the Agreement. Each Party shall ensure that its directors, employees, agents and other intermediaries are bound by a similar duty of confidentiality.

- 14.2** Upon termination or expiration of the Agreement for any reason whatsoever, the Customer shall immediately return to Janssens Plc any documents containing restricted information about the Products, the market, sales of the Products, Janssens Plc, or its business, etc. provided by Janssens Plc in the framework of the Agreement and these general terms and conditions.

#### **Article 15 Compliance with anti-bribery laws; Code of ethics**

- 15.1** The Parties are aware and acknowledge that many countries, including the United States of America and the member states of the European Union, have adopted and enforce laws that prohibit the payment of bribes for the purpose of facilitating, obtaining or retaining business opportunities, and accordingly, to ensure that financial transactions and any other activities undertaken pursuant to the Agreement do not violate these anti-bribery laws, the Customer represents and warrants that neither it nor any of its personnel, including its officers, directors, employees, agents and representatives, has made, offered or received or will make, offer or receive or will cause anyone to make, offer or receive any "Prohibited Payments," as defined below, to or from (i) a "Government official or employee," as defined below, or (ii) a "Customer official or employee", as defined below, or (iii) a "Principal employee", as defined below, in connection with its business dealings with Janssens Plc for the purpose of obtaining or retaining business or to otherwise induce any Government official or employee or Customer official or employee or Principal employee to take or forego any action in connection with any activities of the Customer or Janssens Plc relating to the Agreement.

For purposes of the Agreement and the Customer's representation above:

- a) "Prohibited Payments" include any offer, gift or payment, or authorization of an offer, gift or payment, of any money or thing of value to or for the benefit of any official or employee. "Prohibited Payments" do not include modest business entertainment or modest gifts that are usual in the ordinary course of business and are made without any intent to influence a business decision.
- b) "Government official or employee" includes any official or employee of any government (or of any department, agency or state-owned instrumentality such as an airport, telecommunications or other utility company that is either in whole or in part controlled by a government) of any country or subdivision thereof, or any official or employee of a public international organization, or any person acting in an official capacity on behalf of such government, instrumentality or public international organization, or any political party or official thereof, or any candidate for political office.
- c) "Customer official or employee" includes any official or employee of any existing or prospective Customer, as well as any agent or other person acting on behalf of any existing or prospective Customer.
- d) "Principal employee" includes any director, officer or employee of Janssens Plc or of any affiliated company of Janssens Plc as well as any agent or other person acting on behalf of Janssens Plc.

- 15.2** Janssens Plc has in force a code of ethics which can be found on Janssens Plc's website at <https://janssens.be/> and Janssens Plc expects and requires the Customer to conduct its business and activities with substantially equivalent ethical standards when conducting business with Janssens Plc and actual and prospective Customers.

## Article 16 Data Protection

**16.1** Applicable data protection laws” shall mean all laws, rules and regulations that apply to or govern the processing of personal data from time to time, and notably, the EU General Data Protection Regulation 2016/679 and rules and regulations adopted by competent supervisory authorities.

Expressions used in these general terms and conditions, e.g. ‘data subject’, ‘personal data’, ‘processing’, ‘personal data breach’ etc., shall be construed in accordance with the meaning given to them in the data protection laws.

The Parties acknowledge that for the purposes of Data Protection Legislation, JANSSENS Plc is the Controller and the Customer is the Data Processor.

The only processing which Janssens Plc has authorised the Customer to do is described in the following paragraphs.

**16.2** The Customer shall at all times comply with the data protection laws, and shall not, by any act or omissions, place Janssens Plc in breach of the data protection laws.

The Customer may only process Personal Data for purposes necessary for the performance of its obligations under the Agreement and not for any other purpose.

The Customer shall process Personal Data on behalf of Janssens Plc and in accordance with the written instructions provided by Janssens Plc from time to time.

If the Customer considers that it has insufficient instructions for the processing of personal data according to the Agreement or considers that an instruction infringes the data protection laws, the Customer shall immediately notify Janssens Plc and await further instructions.

The Customer shall ensure that all its employees, representatives and agents act in accordance with this Agreement, the data protection laws and the instructions that may be given from time to time by Janssens Plc.

The Customer shall ensure that persons authorized to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

If a data subject, a supervisory authority or any other third party request information from the Customer regarding the processing of Personal Data, the Customer shall refer such request to Janssens Plc.

The Customer may not, without prior instructions from Janssens Plc, transfer or in any other way disclose Personal Data or any other information relating to the processing of Personal Data to any third party.

**16.3** The Customer shall without delay assist Janssens Plc as required in order for Janssens Plc to fulfil its obligations to respond to requests from data subjects, including requests for access, rectification, blocking, restriction, erasure, data portability or the exercising of any other rights of the data subjects under the Data Protection Laws.

The Customer shall also assist Janssens Plc by implementing appropriate technical and organizational measures suggested by the for the fulfilment of Janssens Plc’s obligations to respond to such requests.

The Customer shall assist Janssens Plc with meeting its other obligations according to the data protection laws where the assistance of the Customer is implied and/or where the assistance of the Customer is necessary for Janssens Plc to comply with such obligations, including obligations regarding security of processing, personal data breaches, data protection impact assessment and consultations with supervisory authorities.

**16.4** The Customer may not transfer personal data outside of EU/EEA or engage a subcontractor for the processing of Personal Data without prior written approval from Janssens Plc.

If subcontractors are approved, the Customer shall ensure that subcontractors are bound by written agreements that require them to comply with corresponding obligations to those contained in the Agreement.

Where a subcontractor fails to fulfil its data protection obligations, the Customer shall remain fully liable to Janssens Plc for the performance of the subcontractor's obligations.

If Janssens Plc gives a general approval to use subcontractors, the Customer shall promptly inform in writing Janssens Plc of any intended changes concerning the addition or replacement of such subcontractors, thereby giving Janssens Plc the opportunity to object to such changes.

In case Janssens Plc objects to such changes, the Customer shall not use such subcontractors.

If Personal Data will be transferred to an approved subcontractor located in a country outside the EU/EEA, the Customer shall ensure that appropriate Standard Contractual Clauses will be part of the agreement entered into with the subcontractor or shall ensure that such transfer otherwise will be permitted under the data protection laws.

**16.5** The Customer shall implement appropriate technical and organisational measures to protect Personal Data taking into account the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise processed.

The Customer's security measures shall at all times meet or exceed the (i) requirements of the data protection laws and (ii) security measures corresponding with good industry practices in the Customer's field of business.

In the event of a Personal Data breach, the Customer shall without undue delay but no later than in thirty-six (36) hours after becoming aware of it notify the Janssens Plc of the personal data breach in writing.

The information to be provided by the Customer shall include: (i) a description of the nature of the Personal Data breach including, the categories and approximate number of data subjects concerned and the categories and approximate number of data records concerned; (ii) a description of likely consequences and/or realized consequences of the Personal Data breach; and (iii) a description of the measures taken or proposed to be taken to address the Personal Data breach and to mitigate its possible adverse effects.

**16.6** The Customer shall upon request provide Janssens Plc with all information necessary to demonstrate compliance with the Customer's obligations under the Agreement.

Janssens Plc, its advisers and auditors, as well as supervisory authorities, shall have the right to audit the Customer's processing of personal data under the Agreement, including, but not limited to, the technical and organizational measures implemented by the Customer.

The Customer shall provide all support necessary for the conduct of the audits, including, but not limited to, allowing access to all relevant facilities, ensuring the availability of all relevant members of the Customer's personnel and making available all relevant documentation, specifications, records and other information related to the processing of personal data.

**16.7** The Parties shall each be liable for any fines imposed on them by supervisory authorities that are intended to sanction Janssens Plc or the Customer for their own violation of the applicable data protection law.

The Customer shall defend, indemnify and hold Janssens Plc, its affiliates and their respective officers, directors, employees, agents, customers and representatives harmless from and against any liability, damages, costs, and expenses, including without limitation reasonable attorneys' fees, fines and penalties or investigative costs in connection with claims arising from or relating to the Customer's failure to comply (i) with GDPR obligations specifically directed to processors or (ii) with lawful instructions of Janssens Plc in the context of the Agreement.

## **Article 17** Applicable Law and Jurisdiction

**17.1** All issues, questions and disputes concerning the validity, interpretation, enforcement, performance or termination of the Agreement and these general terms & conditions, as well as all tort matters and other matters of pre- and extra-contractual liability between the Parties shall exclusively be governed by and construed in accordance with the Belgian law, without giving effect to any other choice of law or conflict-of-laws rules or provisions (Belgian, foreign or international), that would cause the laws of any jurisdiction other than Belgium to be applicable.

However, the Parties expressly agree that:

- Belgian legislation on termination of exclusive distribution agreements concluded for an indefinite duration (art. X.35-40 BEC);
- the United Nations Convention on Contracts for the International Sale of Goods (1980) ("Vienna Convention")

do not apply.

**17.2** Any dispute concerning the validity, interpretation, enforcement, performance, or termination of the Agreement as well as any dispute on a tort or any other extra-contractual matter shall be submitted to the exclusive jurisdiction of the Antwerp (division Antwerp) courts.