

GENERAL PURCHASE CONDITIONS ROTTERDAM WORLD GATEWAY B.V.



1. Definitions

Buyer: Rotterdam World Gateway B.V.

Supplier: the party the Buyer contracts with or intends to contract with.

Buyer's group and/or Supplier's group: has the meaning as defined in Article 2:24b Dutch Civil Code.

Agreement: any agreement, including these General Purchase Conditions ("GPC"), between the Buyer and the Supplier for the purchase of goods and/or services by the Buyer from the Supplier, or any other assignment given by the Buyer to the Supplier.

2. Applicability

2.1 These GPC apply to all Agreements and to all requests, offers, purchase orders, order confirmations and other legal acts relating to an Agreement.

2.2 The Supplier's (general) terms and conditions are hereby expressly rejected and will not apply, unless parties have mutually agreed otherwise in writing. If in the latter case a conflict occurs between the GPC and the (general) terms and conditions applied by the Supplier, then the GPC shall prevail.

2.3 If the contents of the Agreement differ from the contents of these GPC, then the contents of the Agreement shall prevail.

2.4 If the Dutch text of the GPC differs from a translation thereof in a different language, then the Dutch text shall be binding.

2.5 If any provision of these GPC is void, or is voided, the other provisions shall remain fully effective. In such situations, the parties shall consult with each other to agree on a new provision to replace the void or voided provision. In doing so, the purpose and meaning of the void or voided provision shall be taken into account as far as possible.

2.6 The Supplier will be notified in writing of any revision of these GPC. From this notification onwards, the revised GPC will apply.

3. Offers and orders

3.1 Any offer etc. made by the Supplier is irrevocable unless it is unequivocally clear from the offer etc. that it is without obligation until the Buyer accepts the offer in writing or sends a written confirmation.

3.2 Any Agreement between the Supplier and the Buyer is formed no sooner than the Buyer has sent a written confirmation to the Supplier or the Buyer has commenced the execution of the Agreement.

3.3 Any costs incurred with respect to the drafting of offers are borne by the Supplier.

4. Prices and invoicing

4.1 All prices are fixed and apply Delivered Duty Paid ("DDP") in conformity with the ICC Incoterms (most recent version) and include the costs of packaging suitably adapted to the method of transport, stowage material, drawings, computations, royalties and all accompanying documents and directions for use and any other costs incurred by the Supplier with respect to the fulfillment of its obligations, unless it has been otherwise agreed in writing.

4.2 Unless otherwise agreed in writing, the Buyer shall pay for the goods supplied or the services provided within 45 days after receipt of the invoice and on the condition that the goods supplied or the services provided have been approved and all relating documentation has been received.

4.3 Supplier must send all invoices electronically to the following email address: purchaseinvoices@rwg.nl.

4.4 The invoice of the Supplier must comply with the requirements imposed by Dutch legislation. In addition, the invoice should state the purchase order number, if applicable, and be addressed to the Buyer's employee whose name is specified by the Buyer.

4.5 Failure to comply with the requirements set out in the Agreement or otherwise agreed, and failure to submit a complete and correct invoice in accordance with clause 4.4 will give the Buyer the right to suspend payment.

4.6 Not in any way does payment by the Buyer constitute a waiver of any right.

4.7 If notwithstanding clause 4.1 the Supplier exercises any right he may have to increase a price, the Buyer is entitled to terminate the Agreement between the Supplier and the Buyer with immediate effect without any notice of default being required and without the Buyer being liable for compensation.

5. VAT registration number

5.1 Parties undertake to provide each other with their correct VAT registration numbers, and to immediately notify each other of any change therein.

5.2 If the Supplier fails to comply with the obligations set out under 5.1, then the Supplier shall pay to the Buyer any VAT and other amounts insofar as the Buyer may be owing such amounts due to the Supplier's non-compliance.

6. Delivery of goods

6.1 Delivery of goods shall be DDP in the manner and at the exact place and time set out in the Agreement.

6.2 The mere fact of exceeding the delivery time shall constitute default on the part of the Supplier, without any further notice of default being required.

6.3 Without prejudice to the provision in the previous paragraph, the Supplier is obliged to immediately inform the Buyer of any delay or foreseeable delay in the execution of the Agreement stating the reason and the expected duration of the delay.

6.4 Unless otherwise agreed in writing, the Supplier is not entitled to make partial deliveries. If the execution of partial deliveries has been agreed, then delivery is, for the purposes of these GPC, also deemed to mean a partial delivery.

6.5 If the Supplier fails to fulfill his delivery obligations vis-à-vis the Buyer, or fails to fulfill these obligations in time, the Buyer shall be entitled to have the goods delivered by a third party. Any costs incurred in so doing shall be for the account of the Supplier.

6.6 The Supplier shall be responsible for the timely availability of dispatch notices, complete packing lists or packing slips, delivery notes, customs forms and the like.

6.7 The Supplier is only entitled to suspend his delivery obligation if the Buyer fails to perform one or more of its material contractual obligations.

6.8 If goods have not been delivered within the agreed-upon term at the agreed-upon place, the Supplier shall owe the Buyer without any notice or other prior demand a penalty payable immediately amounting to 0.1% of the price of the goods or services in question, plus VAT, for each day that the default continues, to a maximum of 10%. If the delivery has become definitively impossible, the penalty is payable in full immediately.

6.9 The penalty shall accrue to the Buyer regardless of any other rights or claims, including:

- his claim to demand performance of the obligation to deliver goods in compliance with the Agreement;
- his right to terminate the Agreement;
- his right to damages.

6.10 The penalty shall be set off against the payments owed by the Buyer, regardless of whether the action for payment has passed to a third party.

6.11 The Buyer at all times has the right to inspect the goods delivered and in the event of evidence of deviations from the Agreement or purchase order to refuse delivery of the goods ("Rejection"). The Supplier is obliged to give its full cooperation to the inspection. The Supplier cannot derive any rights from the results of an inspection or from the non-occurrence of an inspection.

6.12 In the event of Rejection the Buyer shall inform the Supplier of the Rejection. The Buyer shall store the rejected goods, or have the goods stored, at the risk and expense of the Supplier. If the Supplier has not taken back the goods within a period of 14 days after the Buyer has informed the Supplier that the goods delivered have been rejected, then the Buyer is entitled to return the goods to the Supplier at the Supplier's risk and expense, without the Supplier's approval being required. If the Supplier should refuse to take delivery of the goods, the Buyer is entitled to store, sell or destroy the goods at the risk and expense of the Supplier

7. Provision of services

7.1 The provision of services must be effected in the manner and at the time as set out in the Agreement.

7.2 Exceeding the time set for the provision of services by the Supplier shall constitute default on the part of the Supplier, without any further notice of default being required.

7.3 The provision of services is completed when the Buyer has confirmed in writing that the services provided have been approved. The Supplier cannot derive any rights from such confirmation and the confirmation therefore does not prevent the Buyer from exercising (for instance) his rights on the grounds of a default on the part of the Supplier.

7.4 If the Supplier fails to fulfill his obligations vis-à-vis the Buyer, or fails to fulfill these obligations in time, the Buyer shall be entitled to provide the services himself or have them provided by a third party. Any costs incurred in so doing shall be for the account of the Supplier.

7.5 The clauses 6.7 up to and including 6.11 are equally applicable to the provision of services.

8. Ownership and risk

8.1 The Supplier guarantees that the unencumbered ownership of the goods passes to the Buyer at delivery.

8.2 The risk in the goods is transferred to the Buyer at delivery in conformity with the Agreement, unless the goods are rejected by the Buyer upon or after delivery (under clause 6).

8.3 The Supplier has to take out insurance against transit damage, at its own risk and expense.

9. Guarantee

9.1 The Supplier guarantees that the goods to be delivered or the services to be provided meet the Agreement. Such guarantee includes at least that:

- the goods delivered and/or services provided are complete and suitable for the intended purpose in the circumstances and at the place anticipated, are of good quality, free of any faults in design, manufacturing and materials and free of viruses;
- the goods delivered and/or services provided are state-of-the-art and fully comply with all applicable legal standards and requirements;
- only expressly agreed-upon materials, services and working methods are used, which correspond to the specifications provided by or on behalf of the Buyer (only applicable if the Buyer has provided specifications);
- all drawings, computations, operating and maintenance instructions and other information required for the operation, repair or maintenance of the goods and/or services are provided and are fully correct and that these as well as all parts shall be available at all times for at least ten years after delivery/provision of the goods and services;
- the goods delivered and/or services provided comply with the Buyer's reasonable requirements;
- the Supplier possesses all the necessary permits/licenses;

9.2 If it turns out that – irrespective of the results of any preceding inspections – any goods provided do not meet the provisions of clause 9.1, then the Supplier shall at his own expense and at the discretion of the Buyer and at the Buyer's first request repair or replace the goods, or supply what is missing, unless the Buyer prefers to terminate the Agreement in conformity with the provisions of clause 12 and without prejudice to any other rights of the Buyer arising from any failure to perform (including the right to damages). Any costs related to this (including cost of repair and disassembly) shall be borne by the Supplier.

9.3 In urgent cases and in cases where it has to be assumed in all reasonableness after consultation with the Supplier that the Supplier will fail to meet his guarantee obligations, then the Buyer is entitled to effect repair or replacement himself at the expense of the Supplier or to have a third party effect such repair or replacement, without the Supplier being discharged from his obligations under the Agreement.

9.4 The Buyer or representatives designated by him shall at all times have access to the Supplier's workshops and offices in order to acquaint himself/himself with the progress and quality of the work on or in respect of the goods ordered.

9.5 At the Buyer's first request he shall be given the opportunity to inspect the agreements and other documents exchanged between the Supplier and his sub-contractors and sub-suppliers.

9.6 Unless agreed otherwise in writing, a guarantee period shall apply of at least five years as from the date of delivery of the goods or the provision of the services.

9.7 Any agreed guarantee period shall resume upon acceptance of the executed repair, the replacement or replenishment to which the guarantee provisions apply.

10. Liability

10.1 The Supplier is liable for damages suffered by the Buyer and/or any subsequent purchasers or users due to a failure of the Supplier to meet any of his obligations under the Agreement. The Supplier shall be liable for both direct and indirect losses.

10.2 The Supplier shall indemnify the Buyer against any possible claims by third parties with respect to the goods or services subject to the Agreement.

10.3 The Supplier is obliged to take out sufficient insurance against any liability that may arise from the Agreement. Upon the Buyer's first request, the Supplier shall provide him with an insurance certificate showing details of the insurance in question, as well as with proof that the premium due has been paid.

10.4 The Buyer is not liable for any loss suffered by the Supplier, unless caused by gross negligence or intent of the Buyer's management.

10.5 Where necessary, the Supplier shall take definite measures so that the Buyer cannot be held liable for any government imposed obligation to remit taxes and/or social security premiums in connection with payments due to employees or third parties, which obligation would ordinarily not be for the account of the Buyer, and shall hold the Buyer harmless against any claims in this respect.

11. Force majeure

In the event of force majeure on the part of one of the parties, the fulfillment of the Agreement shall be suspended for the duration of the force majeure period, without any of the parties being liable for compensation as regards the other party. If the situation of force majeure should last longer than 14 days, the other party shall have the right to terminate the Agreement with immediate effect and without court intervention by giving notice in writing, without any right to damages arising. Force majeure on the part of the Supplier shall in no event be understood to mean: staff shortage, strikes, non-performance by any third party engaged by the Supplier, transport problems on the part of the Supplier or any third parties engaged by the Supplier, failure of equipment, liquidity and/or solvency problems at the Supplier or government measures affecting the Supplier.

12. Termination

- 12.1 The Buyer shall be entitled to suspend partially or fully the performance of any of his obligations under the Agreement, or to partially or fully terminate the Agreement with immediate effect by giving notice in writing and without the Buyer being liable to pay any damages in the event of:
- a failure by the Supplier to perform one or more of his obligations under the Agreement or of agreements relating thereto;
 - (an application for) suspension of payments or a declaration of bankruptcy on the part of the Supplier;
 - guardianship order or appointment of an administrator on the part of the Supplier;
 - sale or termination of the business of the Supplier;
 - cancellation of any licenses of the Supplier that are required for the execution of the Agreement; or
 - seizure of a substantial part of the Supplier's assets.
- 12.2 Any claims the Buyer may have or come to have against the Supplier upon termination shall be payable forthwith and in full.

13. Safety

- 13.1 If the Supplier will be providing services during the full term of the Agreement, it must be in possession of a valid VCA Safety Certificate or equal certificate. If the Supplier cannot reasonably obtain this certificate, it must submit a written request for an exemption to the Buyer's Health, Safety, Security & Environment ("HSSE") department.
- 13.2 All individuals to be employed by the Supplier at the Buyer's site must, for the entire duration of the employment:
- be in possession of a valid VCA Basic Safety (*Basisveiligheid*) certificate or equal certificate;
 - be familiar with the traffic and safety regulations applicable at the Buyer's company, including the most recent version of the "RWG Gate Instructions", the "HSSE instructions for contractors", and to strictly comply therewith.
- 13.3 The Supplier will be liable for any loss or damage arising from non-compliance with this provision. In addition, in the event of non-compliance with this provision, the Buyer will be authorised to terminate the Agreement with immediate effect without any prior notice of default being required. The Buyer will not be liable for any loss or damage arising from this early termination of the Agreement.

14. Confidentiality

- 14.1 The Supplier acknowledges that in the context of (the execution of) the Agreement he may come into possession of confidential information of the Buyer. Such confidential information (including information regarding products, results of business activities, etc.) shall remain the exclusive property of the Buyer and must not be disclosed to any third party or be used in any other way for any purpose other than the execution of the Agreement without prior written consent.
- 14.2 Also, the Supplier shall not disclose any information about his relationship with the Buyer to any third party without express written consent from the Buyer.
- 14.3 The Supplier is obliged to impose the same obligation as referred to in this clause upon his employees or any third parties he engages in the execution of the Agreement. The Supplier warrants that such employees/third parties shall not act in breach of the duty of secrecy.

15. Subcontracting and assignment

- 15.1 The Supplier may not transfer or contract out any of his rights and obligations under the Agreement either in part or in full to third parties, without prior written permission of the Buyer.
- 15.2 In case the Buyer grants the permission, this does not release the Supplier from any obligation or liability under the Agreement. The Supplier shall hold the Buyer fully harmless against all claims by any third parties whose services the Supplier has engaged and shall reimburse all payments made by the Buyer to a third party or third parties.
- 15.3 If the Supplier engages the services of third parties in the execution of an assignment, as sub-contractor, sub-supplier or otherwise, he shall ensure that these third parties are equally bound by these GPC, to the exclusion of any terms and conditions of these third parties.
- 15.4 The Buyer shall be entitled to transfer, either wholly or partially, the rights and obligations arising by virtue of the Agreement to a third party, provided the transfer is within Buyer's group. The Supplier shall at first request provide full assistance for this transfer.

16. Virus protection

The Supplier shall take all necessary steps (including checking with the latest commercially available anti-virus software) to prevent virus infections from affecting the systems of the Buyer as a result of using the goods and/or services supplied or during the work carried out by the Supplier at the Buyer. For the purposes of this clause, the term "viruses" shall include 'logic bombs', 'worms' or other foreign elements in the operating environment, which terms are in general use in the computer and software industries.

17. Personal Data Protection

- 17.1 For the purpose of the Supplier's execution of the Agreement, the Supplier is allowed for the benefit of the Buyer to perform acts as the responsible party/processor such as using, gathering, furnishing and dispersing data of private individuals as referred to in the Personal Data Protection Act (*Wet bescherming persoonsgegevens*).
- 17.2 The Supplier shall comply with any detailed technical and organizational protection measures, which the Buyer may impose under the Personal Data Protection Act.
- 17.3 The Supplier shall comply with the obligations arising from the Personal Data Protection Act. If the Supplier acts in breach of the Personal Data Protection Act, the Supplier shall hold the Buyer harmless against all claims and damage arising therefrom.

18. Set-off

The Buyer is entitled to set off any amount the Buyer and/or any member of the Buyer's group can claim from the Supplier and/or any member of the Supplier's group, against any amount owed by the Buyer and/or any member of the Buyer's group to the Supplier.

19. Intellectual property rights

- 19.1 Insofar as possible, the Supplier grants to the Buyer a non-exclusive, eternal, irrevocable, global and transferable right to use any intellectual property rights regarding goods and/or services provided by the Supplier. This right of use includes the right to grant a similar right of use to third parties.
- 19.2 The Supplier guarantees that the use of goods supplied or services provided by the Supplier will not infringe on any intellectual property right or other rights of third parties.
- 19.3 The Supplier indemnifies the Buyer against any claims by third parties arising from any infringement on the rights set out in clause 19.2 and the Supplier shall compensate the Buyer for any ensuing losses.
- 19.4 For the purpose of this clause, "Intellectual Property of the Buyer" refers to goods, information, concepts, drawings, software or anything else whatsoever which is/are the object of an intellectual property right of the Buyer. The Supplier shall in no event acquire any rights with respect to Intellectual Property of the Buyer, made available by the Buyer in the execution of the Agreement. The Supplier shall manage any Intellectual Property of the Buyer at his own risk and expense and where applicable keep it in good repair. The Supplier shall not use Intellectual Property of the Buyer or have it used by third parties unless the Supplier has been authorized in writing by the Buyer to do so.
- 19.5 Any information with regard to Intellectual Property of the Buyer is confidential information in the sense of clause 14 (Confidentiality).
- 19.6 If the Supplier, within the scope of the Agreement, develops goods for the Buyer, then any intellectual property rights to be invoked shall accrue exclusively to the Buyer. Any fee for this shall be deemed to be included in the agreed price of the goods. Insofar as necessary the Supplier shall render full assistance in the creation or the transfer of such rights to the Buyer.

20. Anti-bribery and anti-corruption

- 20.1 The Supplier represents and warrants that it is aware of and complies with all applicable laws, statutes, regulations and the Buyer's policies relating to anti-bribery and anti-corruption (hereafter referred to as: the Anti-bribery Laws) including but not limited to the UK Bribery Act 2010 and not engage in any activity, practice or conduct which would constitute an offence under any of the Anti-bribery Laws.
- 20.2 During term of the Agreement, the Supplier agrees to notify the Buyer immediately in writing if it becomes aware of a violation of any of the Anti-bribery Laws.
- 20.3 The Supplier shall ensure that any person or entity associated with it that is performing services or providing goods in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person or entity terms equivalent to the terms set out in this clause.
- 20.4 Breach of this clause shall be deemed a material breach of the Agreement entitling the Buyer to terminate the Agreement immediately.

21. Applicable law and disputes

- 21.1 The legal relationship between the Buyer and the Supplier and any agreements relating to such legal relationship, shall solely be governed by the law of the Netherlands. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (1980, CISG) are not applicable.
- 21.2 All disputes between parties shall in the first instance be settled by the competent court in Rotterdam, the Netherlands.