

GENERAL PURCHASE CONDITIONS ROTTERDAM WORLD GATEWAY B.V.



1. Definitions

Purchaser: Rotterdam World Gateway B.V. ("RWG")

Supplier: the party with whom the Purchaser enters - or intends to enter - into a contract.

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

Agreement: any agreement, including these General Purchasing Terms and Conditions ("GPTC"), between the Purchaser and the Supplier concerning the purchase by the Purchaser of goods and/or services from the Supplier, or any other assignment given by the Purchaser to the Supplier.

2. Applicability

These GPTC are applicable to all Agreements and to all requests, quotations, purchase orders, order confirmations, and other legal acts relating to an Agreement.

The Supplier's (general) terms and conditions are herewith expressly turned down and are not applicable, unless the parties have mutually agreed otherwise in writing. If in the latter case a conflict occurs between the GPTC and the (general) terms and conditions applied by the Supplier, the GPTC shall prevail.

If the contents of the Agreement differ from the contents of these GPTC, the contents of the Agreement shall prevail.

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

If any provision of these GPTC is (or is declared) null and void, 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 provision that is (or has been declared) null and void. In doing so, the purpose and meaning of the provision that is (or has been declared) null and void shall be taken into account as much as possible.

The Supplier shall be notified in writing of any revision of these GPTC. From this notification onwards, the revised GPTC shall apply.

3. Quotations and orders

Any quotation et cetera made by the Supplier is irrevocable, unless it becomes unequivocally clear from the quotation et cetera that it is without obligation until the Purchaser accepts the quotation in writing or sends a written confirmation.

No Agreement between the Supplier and the Purchaser is concluded until the Purchaser has sent a written confirmation to the Supplier. If, before receipt of the written confirmation, the Supplier performs any work or makes preparations thereto, this shall be at the Supplier's own expense and risk.

All costs incurred with respect to the drafting of quotations shall be borne by the Supplier.

4. Prices and invoicing

All deliveries are made DDP (Delivered Duty Paid) in accordance with the ICC Incoterms (latest version). All prices are fixed and include, inter alia, the availability of computers, auxiliary devices, 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 fulfilment of its obligations, unless it has been otherwise agreed in writing.

Unless otherwise agreed in writing, the Purchaser shall pay for the goods delivered or services provided within 45 days after receipt of the invoice and subject to the condition that the goods delivered or services provided have been approved and all corresponding documentation has been received.

The Supplier must send all invoices electronically to the following e-mail address: purchaseinvoices@rwg.nl.

The invoice of the Supplier must meet the requirements imposed by Dutch legislation. In addition, the invoice must specify the purchase-order and work-order number, if applicable, and be addressed to the Purchaser's employee whose name is specified by the Purchaser.

Failure to meet the requirements set out in the Agreement or otherwise agreed, and failure to submit a complete and correct invoice in accordance with article 4.4 shall give the Purchaser the right to suspend payment.

Payment by the Purchaser shall in no event constitute a waiver of rights in whatever way.

Overstepping of a payment deadline by the Purchaser or non-payment of an invoice on grounds of presumed inaccuracy of the contents thereof, or in the event of inferior quality of the invoiced goods and/or services, shall not entitle the Supplier to suspend or terminate its work.

5. VAT registration number

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

If the Supplier fails to fulfil the obligations set out under 5.1, the Supplier shall pay VAT and other amounts to the Purchaser insofar as such amounts are payable by the Purchaser due to the Supplier's noncompliance.

6. Delivery of goods

All deliveries are made DDP (Delivered Duty Paid) in accordance with the ICC Incoterms (latest version), in the manner and at the exact place and time stated in the Agreement.

The Supplier is obliged to notify the Purchaser immediately of any delay or foreseeable delay in the implementation of the Agreement, stating the grounds and expected duration of the delay, as well as the measures proposed by the Supplier to prevent or limit the delay as much as possible. Nevertheless, the mere fact of overstepping a deadline shall constitute a default on the part of the Supplier, without requiring any further notice of default.

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

If the Supplier fails to fulfil its delivery obligations vis-à-vis the Purchaser, or fails to fulfil these obligations in time, the Purchaser shall be entitled to have the goods delivered by a third party. In that case, the Purchaser shall first allow the Supplier a reasonable period of time to fulfil its obligations after all. In urgent cases, the Purchaser shall be entitled, even before expiry of the allowed period of time, to take all measures as the Purchaser deems necessary, all this without prejudice to the right of the Purchaser to claim damages.

The Supplier is responsible for the timely availability of dispatch notices, complete packing lists or packing slips, delivery notes, customs forms, et cetera.

If goods have not been delivered within the agreed-upon term at the agreed-upon place, the Supplier shall owe the Purchaser, without requiring any notice or other prior notification, an immediately payable penalty amounting to 2% of the purchase price (exclusive of VAT), increased by a penalty of 0.5% of the purchase price for each calendar day that the Supplier is in default, subject to a maximum of 20% of the purchase price (exclusive of VAT). If the delivery has become definitively impossible, the penalty of 20% of the purchase price shall be immediately payable in full.

The penalty shall accrue to the Purchaser regardless of any other rights or claims, including but not limited to:

- the Purchaser's claim to demand performance of the obligation to deliver goods in compliance with the Agreement;
- the Purchaser's right to dissolve the Agreement in whole or in part;
- the Purchaser's right to damages.

The Purchaser has the right to offset the penalty against the payments payable by the Purchaser, regardless of whether the claim for payment has passed to a third party.

6.9 The Purchaser is at all times entitled 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 render its full cooperation to the inspection. The Supplier cannot derive any rights from the results of an inspection, or from non-occurrence of an inspection.

6.10 In the event of rejection, the Purchaser shall notify the Supplier of the rejection. The Purchaser shall store the rejected goods, or have the rejected goods stored, at the Supplier's expense and risk. If the Supplier has not taken back the goods within a period of 14 days after the Purchaser has informed the Supplier that the goods delivered have been rejected, the Purchaser shall be entitled to send the goods back to the Supplier at the Supplier's expense and risk, without requiring the Supplier's approval. If the Supplier refuses to accept the goods, the Purchaser shall be entitled to store, sell, or destroy the goods at the Supplier's expense and risk.

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 The Supplier is obliged to notify the Purchaser immediately of any delay or foreseeable delay in the implementation of the Agreement, stating the grounds and expected duration of the delay, as well as the measures proposed by the Supplier to prevent or limit the delay as much as possible. Nevertheless, the mere fact of overstepping a deadline constitutes a breach of contract on the part of the Supplier, without requiring any further notice of default.

7.3 The provision of services shall be deemed completed when the Purchaser 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 Purchaser from exercising (for instance) its rights on grounds of a default on the part of the Supplier.

7.4 If the Supplier fails to fulfil its obligations vis-à-vis the Purchaser, or fails to fulfil these obligations in time, the Purchaser shall be entitled to provide the services itself or to have the services provided by a third party. Any costs incurred in so doing shall be for the account of the Supplier. In that case, the Purchaser shall first allow the Supplier a reasonable period of time to fulfil its obligations after all. In urgent cases, the Purchaser shall be entitled, even before expiry of the determined deadline, to take all and any measures as the Purchaser deems necessary, this without prejudice to the Purchaser's right to claim damages.

7.5 Articles 6.6 up to and including 6.10 shall apply mutatis mutandis to the provision of services.

7.6 The Supplier is accountable for itself and for its subcontractors, if any, and warrants compliance with the applicable (tax) legislation, including but not limited to the Dutch Collection of State Taxes Act 1990, legislation concerning PAYE and VAT, the Foreign Nationals Employment Act, social-security legislation, collective agreements, and all resulting obligations.

7.7 The Supplier indemnifies the Purchaser and shall compensate the Purchaser upon its first request for all and any claims by third parties in connection with improper compliance with applicable legislation, whether this refers to staff, independent contractors, or public authorities, and regardless of whether this refers to a salary claim or a claim for compensation, damage, taxes, additional tax assessment, or a penalty, including but not limited to all and any expenses to be incurred by the Purchaser in connection with such a claim.

8. Ownership and risk

8.1 The Supplier warrants that the unencumbered ownership of the goods shall pass to the Purchaser upon delivery.

8.2 The risk of the goods shall pass to the Purchaser upon delivery, in conformity with the Agreement, unless the goods are rejected by the Purchaser upon or after delivery (pursuant to article 6).

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

9. Guarantee

9.1 The Supplier warrants that the deliverable goods or services are in conformity with the Agreement. This warrant includes but is not limited to the following:

- the goods delivered and/or services provided are complete and suitable for the intended purpose in the foreseen circumstances and at the foreseen place, are of good quality, free of any flaws in terms of design, manufacturing and/or materials, and free of any viruses;
- the goods delivered and/or services provided are state-of-the-art and comply fully with all applicable legal standards and requirements;
- use shall only be made of expressly agreed-upon materials, services and working methods, which are in conformity with the specifications submitted by or on behalf of the Purchaser (only applicable if the Purchaser has issued specifications);
- all drawings, computations, operating and maintenance instructions and other information required for the operation, repair or maintenance of the goods and/or services shall be provided and are fully correct, and these as well as all parts shall be available during the economic lifetime of the delivered goods;
- the goods delivered and/or services provided meet the Purchaser's reasonable requirements;
- the Supplier is in possession of all required permits/licences;

9.2 If it turns out that - irrespective of the results of any preceding inspections - any goods delivered are not in compliance with the provisions of article 9.1, the Supplier shall repair or replace the goods or supply what is missing, at its own expense and at the discretion of the Purchaser and at the Purchaser's first request, unless the Purchaser prefers to dissolve the Agreement in whole or in part in conformity with the provisions of article 12 and without prejudice to any other rights of the Purchaser 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 shall fail to meet its guarantee obligations, the Purchaser shall be entitled to proceed to repair or replacement itself or have a third party carry out such repair or replacement at the expense of the Supplier, without releasing the Supplier from its obligations under the Agreement.

9.4 Unless otherwise agreed in writing, a guarantee period of at least three years shall be applicable as of the date of delivery of the goods or the provision of the services.

9.5 Any agreed guarantee period shall resume upon acceptance of the performed repair, the replacement or completion governed by the guarantee provisions.

10. Liability

10.1 Unless otherwise stated in the Agreement, the Supplier is liable for all and any damage suffered by the Purchaser if the Supplier has failed to fulfil its commitments under the Agreement, and/or as a result of the acts or omissions on the part of the Supplier, its staff, or any third parties engaged by the Supplier. The provisions in Part 6.1.10 of the Dutch Civil Code shall remain in full force.

10.2 The Supplier indemnifies the Purchaser for and against any claims by third parties in connection with the Agreement. This indemnification also refers to all and any damage suffered and expenses incurred by the Purchaser within that scope.

10.3 The Supplier is obliged to take out insurance against any liability that may arise from the Agreement. Upon the Purchaser's first request, the Supplier shall submit an insurance certificate to the Purchaser stating details of the insurance concerned, as well as proof that the insurance premium payable has been paid.

10.4 The Purchaser shall be exclusively liable for any loss suffered by the Supplier if caused by gross negligence or intent on the part of the Purchaser's management.

- 10.5 Where necessary, the Supplier shall take final measures so that the Purchaser cannot be held liable for any obligation imposed by the authorities to pay taxes and/or social security contributions in connection with payments to employees or third parties, which obligation would not be for the account of the Purchaser under normal circumstances, and shall indemnify the Purchaser against any claims in this regard.
11. **Force majeure**
- 11.1 In the event of force majeure on the part of one of the parties, the fulfilment of the Agreement shall be suspended for the duration of the force majeure period, without any of the parties being liable to pay compensation to the other party. If the situation of force majeure persists for more than 14 days, the other party shall have the right to dissolve the Agreement in whole or in part with immediate effect by giving written notice, without any judicial intervention, and without this resulting in any entitlement to damages. Force majeure on the part of the Supplier shall in no event be understood to mean: staff shortage, strikes, breach of contract by any third parties engaged by the Supplier, transport problems on the part of the Supplier or any third parties engaged by the Supplier, (mechanical) failure of equipment, cash-flow problems and/or solvency problems on the part of the Supplier, or government measures affecting the Supplier.
12. **Termination**
- 12.1 The Purchaser shall be entitled to suspend the performance of any of its obligations under the Agreement in whole or in part or to dissolve the Agreement in whole or in part with immediate effect by giving written notice and without any liability on the part of the Purchaser to pay any damages in the event of:
- (i) non-fulfilment on the part of the Supplier of one or more of its obligations under the Agreement or of agreements relating thereto;
 - (ii) (an application for) administrative receivership on the part of the Supplier or the Supplier being declared bankrupt;
 - (iii) placement under legal restraint or appointment of an administrator on the part of the Supplier;
 - (iv) sale or non-continuation of the business of the Supplier;
 - (v) withdrawal of any licences of the Supplier required for the implementation of the Agreement;
 - (vi) attachment of a substantial part of the Supplier's assets;
 - (vii) failure on the part of the Supplier or of staff engaged on the part of the Supplier to comply with the safety regulations and/or safety procedures within the meaning of article 13 of these general terms and conditions;
 - (viii) substantial change in economic circumstances.
13. **Safety**
- 13.1 If the Supplier provides services during the full term of the Agreement, the Supplier must be in possession of a valid VCA Safety Certificate or equivalent certificate (ISO). If the Supplier cannot reasonably obtain such a certificate, it must submit a written request for dispensation to the Purchaser's QHSSE department (Quality, Health, Safety, Security, and the Environment).
- 13.2 All persons to be employed by the Supplier at the Purchaser's site must, for the entire duration of the employment:
- (a) be in possession of a valid VCA Basic Safety (*Basisveiligheid*) certificate or equivalent certificate;
 - (b) be familiar with the traffic and safety regulations applicable at the Purchaser's site, including the most recent version of the QHSSE regulations for (sub)contractors, and to strictly comply with such regulations.
- 13.3 The Supplier shall submit a recent Risk Identification & Assessment ("RI&E") - or, if the Agreement refers to a project, a health & safety plan ("V&G plan"); the documents shall be submitted for approval to the QHSSE department of the Purchaser at the latest two weeks before commencement of the work.
- 13.4 The Supplier must submit the application for an RWG work permit at the latest Wednesday at noon in the week prior to the scheduled work. In the event of an unsafe situation, the Supplier must immediately bring the work to a halt.
- 13.5 The Supplier must immediately report each unsafe situation - or incident caused by an unsafe situation or act during the implementation of the Agreement - by phone to telephone number 0031 (0) 10 24 22 112, as well as in writing to its contact person at the Purchaser's and the representative of the QHSSE department. This applies in particular if personal injury and/or damage is inflicted on staff and/or goods of the Purchaser or of third parties. The Supplier must render all cooperation to any future investigation into the incident and a possible report to the authorities.
- 13.6 If the Supplier comes from outside the Netherlands, the workers of the Supplier must have verbal command of the English language, and Suppliers coming from outside Europe must produce valid work permits before commencement of the work.
- 13.7 The Supplier shall adhere to the currently applicable environmental requirements and shall keep the work site clean and tidy.
- 13.8 The Supplier warrants that it is fully familiar with Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals ("REACH") which are imported, distributed, or used within the European Union. The Supplier warrants that, if and insofar as applicable, the goods or substances concerned are in full compliance with the REACH requirements. The Supplier shall pass the (pre-)registration number(s) to the Purchaser. If and insofar as the goods or substances are governed by other (inter-)national legislation limiting the use of chemicals, the Supplier warrants that the goods or substances are in full compliance with the said legislation.
- 13.9 The Supplier must specify beforehand what hazardous substances shall be used. If the substance and/or mixture to be delivered by the Supplier meets the criteria of article 31 REACH, the Supplier must submit a material safety data sheet ("MSDS") in Dutch to the Purchaser upon first delivery thereof at the latest. If any changes occur in substances and/or mixtures within 12 months after the Purchaser's purchase from the Supplier, the Supplier must send a revised material safety data sheet to the Purchaser in accordance with article 31 REACH.
14. **Non-Disclosure**
- 14.1 The Supplier acknowledges that, within the context of (the implementation of) the Agreement, it may obtain possession of confidential information of the Purchaser. Such confidential information (including information regarding products, results of business activities, et cetera) shall remain the exclusive property of the Purchaser and, without the prior written consent, may not be disclosed to any third party or be used in any other way for any purpose other than the implementation of the Agreement.
- 14.2 Also, the Supplier shall not disclose any information about its relationship with the Purchaser to any third party without the express written consent from the Purchaser.
- 14.3 The Supplier is obliged to impose the same obligation as referred to in this article upon its employees or any third parties that the Supplier engages in the implementation of the Agreement. The Supplier warrants that such employees/third parties shall not act in breach of the non-disclosure obligation.
15. **Subcontracting and transfer of rights and obligations**
- 15.1 Without the prior written consent of the Purchaser, the Supplier may not transfer or outsource, in whole or in part, any of its rights and/or obligations under the Agreement to third parties.
- 15.2 If the Purchaser grants its consent, this shall not release the Supplier from any obligation or liability under the Agreement. The Supplier shall fully indemnify the Purchaser against all and any claims by any third parties whose services the Supplier has engaged and shall reimburse all payments made by the Purchaser to a third party or to third parties.
- 15.3 If in the performance of an assignment the Supplier engages the services of third parties as sub-contractor, sub-supplier or otherwise, the Supplier shall ensure that such third parties are equally bound by these GPTC by excluding any terms and conditions of such third parties.
- 15.4 The Purchaser shall be entitled to transfer, in whole or in part, the rights and obligations under the Agreement to a third party, provided that the transfer is within the Purchaser's group. The Supplier shall render its full cooperation to such transfer upon first request.
16. **Virus protection**
- The Supplier shall take all necessary steps (including a screening with the help of the latest commercially available anti-virus software) to prevent any virus infections from affecting the systems of the Purchaser caused by the use of goods delivered or services provided or during the work carried out by the Supplier at the Purchaser's. For the purposes of this article and article 9.1, the term "viruses" includes but is not limited to 'logic bombs', 'worms', or other unidentified elements in the operational environment, which terms are commonly used in the computer and software industries.
17. **Personal Data Protection**
- 17.1 For the purpose of the Supplier's implementation of the Agreement, the Supplier is allowed for the benefit of the Purchaser to perform acts as the responsible party/processor such as using, gathering, disclosing and disseminating data of private individuals within the meaning of the General Data Protection Regulation ("GDPR") respectively the GDPR Implementation Act, however strictly within the scope of the implementation of the Agreement. The Supplier is explicitly prohibited from using any personal data obtained by virtue of the Agreement for other purposes than the purpose for which they were obtained.
- 17.2 The Supplier warrants that it shall comply with technical and organisational protective measures, giving due observance to the nature and scale of the personal data, the risks, the state of technology, and the measures which are common practice within the business sector, which are adequate seen within the context of article 24 GDPR.
- 17.3 If the Purchaser is held liable by a third party, including but not limited to a stakeholder within the meaning of the GDPR, the Dutch Data Protection Authority, or any other party, as a result of any default on the part of the Supplier, the Supplier shall indemnify and compensate the Purchaser upon first request for all and any damage, penalties, administrative enforcement measures, and the legal and technical costs involved.
- 17.4 In the event of a data security breach ('data leak'), the Purchaser shall be authorized to dissolve the Agreement, regardless of whether the data security breach constitutes non-fulfilment of the Agreement.
18. **Set-off**
- The Purchaser is entitled to offset any amount that the Purchaser and/or any member of the Purchaser's group can claim from the Supplier, and/or any member of the Supplier's group, against any amount payable to the Supplier by the Purchaser and/or any member of the Purchaser's group.
19. **Intellectual property rights**
- 19.1 If and insofar as possible, the Supplier grants the Purchaser a non-exclusive, perpetual, irrevocable, global and transferable right to use intellectual property rights concerning goods delivered and/or services provided by the Supplier. This right of use contains the right to grant a similar right of use to third parties.
- 19.2 The Supplier warrants that the use of goods delivered or services provided by the Supplier shall not infringe any intellectual property right or other third-party rights.
- 19.3 The Supplier indemnifies the Purchaser against all and any claims by third parties arising from infringement of the rights set out in article 19.2 and the Supplier shall compensate the Purchaser for any ensuing damage.
- 19.4 For the purpose of this article, "Intellectual Property of the Purchaser" refers to goods, information, concepts, drafts, drawings, software or anything else whatsoever which is/are the object of an intellectual property right of the Purchaser. The Supplier shall in no event acquire any rights concerning the Intellectual Property of the Purchaser which are made available by the Purchaser during the implementation of the Agreement. The Supplier shall manage all Intellectual Property of the Purchaser at its own expense and risk and keep it in a good state of repair if applicable. The Supplier shall not use any Intellectual Property of the Purchaser or have it used by third parties unless the Supplier has been authorized in writing by the Purchaser to do so.
- 19.5 Any information with regard to Intellectual Property of the Purchaser is confidential information within the meaning of article 14 (*Non-Disclosure*).
- 19.6 If, within the scope of the Agreement, the Supplier develops goods for the Purchaser, any intellectual property rights to be invoked shall fall exclusively to the Purchaser. Any fee for this shall be deemed to be included in the agreed price of the goods. Insofar as necessary the Supplier shall render its full cooperation to the establishment of such rights or to a transfer of such rights to the Purchaser.
20. **Anti-bribery and anti-corruption**
- 20.1 The Supplier represents and warrants that it is aware of and complies with all applicable laws, articles of association, regulations and the Purchaser's policy on anti-bribery and anti-corruption (hereafter referred to as: the anti-bribery laws and regulations) including but not limited to the UK Bribery Act 2010, and that it shall not engage in any activity, practice, or conduct which would constitute a criminal offence under any of the anti-bribery laws and regulations.
- 20.2 During the term of the Agreement, the Supplier agrees to notify the Purchaser immediately in writing if it becomes aware of violation of any of the anti-bribery laws and regulations.
- 20.3 The Supplier shall ensure that any natural person or legal entity associated with it that is performing services or delivering goods in connection with the Agreement does so exclusively based on a written contract which imposes terms on such natural person or legal entity which are equivalent to the terms set out in this article.
- 20.4 Violation of this article shall be deemed to constitute a material breach of the Agreement entitling the Purchaser to immediately dissolve the Agreement in whole or in part.
21. **Applicable law and dispute resolution**
- 21.1 The legal relationship between the Purchaser and the Supplier and any agreements concerning such legal relationship shall be exclusively governed by the laws of the Netherlands. The applicability of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (the 1980 Vienna Sales Convention) is explicitly precluded.
- 21.2 All and any disputes between parties shall in the first instance be settled by the competent court in Rotterdam, the Netherlands.