GENERAL GOVERNMENT PURCHASING CONDITIONS 2018
(ARIV 2018)

Adopted by order of
the Prime Minister,
Minister of General Affairs,
of 3 May 2018, no. 3219106

I GENERAL

Article 1 Definitions

The following terms in these Purchasing Conditions are written with initial capitals and are defined as follows.

1.1 Schedule

a document attached to the Contract which, when initialled by both parties, forms part of the Contract.

1.2 Documentation

the manuals or other user instructions accompanying the Product, in Dutch or another language agreed between the Parties.

1.3 Purchasing Conditions

these General Purchasing Conditions (ARIV 2018), which apply to and form part of the Contract.

1.4 Inspection

the inspection of the Product for visible defects and non-conformity carried out at the Purchaser's request on the Supplier's premises prior to Delivery.

1.5 Purchaser

the State of the Netherlands or any other purchaser using these Purchasing Conditions.

1.6 Supplier

the Purchaser's counterparty.

1.7 Delivery

the delivery of the Product, including its assembly or installation in accordance with the requirements set out in the Contract.

1.8 Contract

the written agreement between the Purchaser and the Supplier to which these Purchasing Conditions are declared to be applicable.

1.9 Party

the Purchaser or the Supplier, depending on the context.

1.10 Product

the movable item(s) to be delivered to the Purchaser by the Supplier under the Contract.

Article 2 Application

2.1 Amendments or additions to the Contract or derogations from certain Purchasing Conditions are binding only if they have been explicitly agreed in writing between the Parties.

2.2 In the event of inconsistency between the Dutch text of these Purchasing Conditions and translations of them, the Dutch text always prevails.

II PERFORMANCE OF THE CONTRACT

Article 3 Delivery

3.1 Unless agreed otherwise in writing, Delivery of the Product by the Supplier will take place on the agreed delivery date(s) or within the agreed delivery period(s) at the delivery address and delivery location specified by the Purchaser, and the Supplier will bear all costs and risks connected with transporting the Product, including, where applicable, the import duties and responsibility for complying with the associated formalities.

3.2 The agreed delivery date(s) or period(s) are considered to be fixed and final. If the Product is not delivered to the agreed location within the agreed period, the Supplier will be in default without notice of default being required.

3.3 Delivery of the Product earlier than the agreed delivery date(s) or period(s) will take place only after prior written consent has been obtained from the Purchaser and will not alter the agreed payment date.

3.4 The Purchaser has the right to defer Delivery, unless this would place a disproportionate burden on the Supplier. The Supplier is obliged to store the

Product for the Purchaser at no additional cost until the deferred Delivery date, unless this would place a disproportionate burden on the Supplier, in which case the Parties will hold discussions to find a reasonable arrangement acceptable to both Parties. The provisions of articles 3.2, 3.4 and 14 apply *mutatis mutandis* to the Delivery deferred by the Purchaser, except that the Supplier will be in default, without prior notice of default, only after the deferred delivery date(s) or period(s) have been exceeded.

3.5 The Purchaser is not obliged to make any payment to the Supplier before the Product has been delivered.

Article 4 Guarantee

4.1 The Supplier guarantees that the delivered Product complies with the Contract, is free of defects and is suitable for the purpose for which the Product is intended. The Product does not comply with the Contract if the Product, partly in view of the nature of the item and the information provided thereon by the Supplier, does not have the characteristics that the Purchaser might expect on the basis of the Contract. The Parties may agree a guarantee period.

4.2 If the Purchaser has not provided a more detailed description of the requirements to be met by the Product, the Product should in any event be of good quality and meet at least the customary requirements concerning soundness, fitness for purpose and workmanship, and all statutory requirements and customary industry regulations concerning quality, safety, health and the environment.

4.3 The Purchaser may no longer invoke the fact that the Product does not comply with the Contract if it has not notified the Supplier accordingly in writing within 30 days of discovering this fact. If the Supplier receives such a notification from the Purchaser, the Supplier will rectify the defect or non-conformity within a period set by the Purchaser in accordance with the provisions of article 13.

4.4 The Supplier guarantees that the delivered Product is free of any special encumbrance or restriction that the Purchaser has not accepted explicitly and in writing. The Supplier indemnifies the Purchaser against all claims in this regard.

4.5 The Purchaser may demand that, as security for compliance with, *inter alia*, the Supplier's guarantee obligations under this Contract, a bank guarantee in accordance with the model attached to these Purchasing Conditions (Annexe 1) is issued by a bank accepted by the Purchaser.

Article 5 Inspection

5.1 At the Purchaser's request, the Product may be inspected by the Purchaser or a third party designated by the Purchaser on the Supplier's premises prior to Delivery. However, the Purchaser is not obliged to carry out such an Inspection.

5.2 If the Purchaser wishes to inspect the Product:

a. the Supplier will have the Product ready for Inspection at a time that allows the agreed delivery times to be met;
b. the Supplier will, upon request and at no cost to the Purchaser, cooperate with the Inspection and provide the Purchaser with a suitable location and reasonable assistance in terms of staff and materials;
c. the Inspection, if the Supplier so desires, will take place in its presence or in the presence of an expert designated by it. The associated costs will be borne by the Supplier.

5.3 If the Purchaser rejects the Product to be supplied, the Supplier is obliged, without prejudice to all other rights or claims of the Purchaser, to provide without delay, at its own expense and risk, a missing, repaired or replacement Product for a new Inspection. The provisions of article 5 apply in full. Rejection by the Purchaser during the first or previous Inspection will not lead to the agreed delivery period being extended.

5.4 The approval of the Product by or on behalf of the Purchaser does not entail any recognition that the Product complies with the guarantees given in accordance with article 4.

III RELATIONS BETWEEN THE PARTIES

Article 6 Contacts

6.1 Each Party will designate a contact to maintain contacts in relation to the performance of the Contract. The Parties will notify each other of the person they have appointed as their contact.

6.2 The contacts may represent and bind the Parties only as regards the performance of the Contract. They may not amend the Contract.

Article 7 Method of notification

7.1 Notifications given by one Party to the other, including undertakings and further agreements, that are relevant to the performance of the contract, are binding on the Parties only if they are given or confirmed in writing by an authorised person.

7.2 'In writing' is understood to include 'electronically', provided:

a. the notification can be consulted by the addressee;
b. the authenticity of the notification is sufficiently guaranteed; and
c. the identity of the sender can be determined with sufficient certainty.

Article 8 Confidentiality

8.1 The Supplier will not divulge in any way any information that is provided by the Purchaser or that is made known to it or comes to its knowledge, which it knows or may reasonably suspect to be confidential, except in so far as it is compelled to divulge such information under a statutory regulation or court ruling.

8.2 The Supplier will impose the duty of confidentiality referred to in this article on all staff it engages in the performance of the Contract and will ensure that this duty is observed.

8.3 The Supplier will not issue press releases or make other public statements about the Contract except with the prior consent of the Purchaser.

8.4 If the Supplier breaches its duty of confidentiality, the Purchaser may impose a penalty, as laid down in the Contract. Payment of the penalty, which is payable forthwith, does not discharge the Supplier from its liability for indemnifying any loss caused by the breach.

Article 9 Processing of personal data

9.1 In so far as the Supplier, as a processor within the meaning of the General Data Protection Regulation, processes personal data for the Purchaser in the framework of the implementation of the Personal Data Agreement, the Supplier guarantees the application of appropriate technical and organisational measures, so that processing meets the requirements of the General Data Protection Regulation and the protection of the data subjects is ensured. The Supplier will process personal data only for and on the basis of written instructions from the Purchaser, barring statutory rules to the contrary.

9.2 The Parties will regulate the processing of personal data by the Supplier for the Purchaser by means of an agreement.

IV FINANCIAL PROVISIONS

Article 10 Prices

10.1 Unless agreed otherwise in writing, the prices agreed for the Product include the costs of transport, taxes, import duties, other levies, insurance, packaging costs, disposal costs and any assembly or installation costs, and are stated in euros.

10.2 The prices for the Product are fixed, unless the Contract specifies the circumstances that may lead to a price adjustment and the manner in which such an adjustment should be made.

Article 11 Invoicing and payment

11.1 The Supplier will invoice the Purchaser for the delivered Product at the agreed prices. The Supplier will send the invoice to the address specified by the Purchaser, stating the date and number of the Contract, the VAT amount and other details requested by the Purchaser.

11.2 The Supplier will send the invoice electronically so that it can be received and processed electronically, in accordance with the specifications issued by the Purchaser.

11.3 The Purchaser will pay the prices for the delivered Product within 30 days of receiving the invoice if it satisfies the provisions of the Contract. If the Purchaser fails without good reason to pay an invoice within this period, it will automatically be liable to pay:

a. compensation as referred to in article 6:96, paragraph 4 of the Dutch Civil Code, and
b. statutory interest as referred to in article 6:119b of the Dutch Civil Code. The compensation and interest will be payable on demand.

11.4 Payment of an invoice by the Purchaser does not entail any recognition that the Product complies with the guarantees given in accordance with article 4.

11.5 The Purchaser has the right to offset invoice amounts owed against amounts that the Supplier owes the Purchaser.

Article 12 Advance

12.1 If it has been agreed that, for the purpose of performing the Contract, the Purchaser should make one or more payments prior to the Delivery of the Product, it may require the Supplier to issue the Purchaser with an on-demand bank guarantee prior to making the payment(s) in question, to the value of the payment(s) in question. The Purchaser is not required to pay any of the cost of the guarantee.

12.2 If, on account of any failure on the part of the Supplier, a Product that complies with the Contract is not delivered to the agreed address within the agreed period, the Supplier is liable to pay the statutory interest on the advance for as long as the failure persists.

12.3 The on-demand bank guarantee will be issued by a bank approved by the Purchaser, in accordance with the model attached to these Purchasing Conditions (Annexe 2).

V NON-PERFORMANCE AND CANCELLATION

13. Non-performance

13.1 If the delivered Product does not comply with the guarantees referred to in article 4, the Purchaser may demand that the Supplier repair or replace the Product. The associated costs will be borne by the Supplier.

13.2 If, after receiving a written demand from the Purchaser, the Supplier fails to comply, within the period stipulated therein, with a requirement as referred to in article 13.1, the Purchaser has the right, without prior recourse to the courts, to choose between:

a. replacement or repair of the Product by a third party at the Supplier's expense;
b. return of the Product in question at the Supplier's expense and risk and cancellation of the Contract in accordance with the provisions of article 16 and, in consequence, crediting of however much of the purchase price has already been paid for the Product in question.

13.3 The provisions of articles 13.1 and 13.2 do not affect other rights and claims that the Purchaser may derive from non-performance, subject to the provisions of article 14.

Article 14 Liability

Unless agreed otherwise, a Party that imputably fails to discharge its obligations is liable to the other Party for any damage incurred by the other Party, on the understanding that liability is limited to the following amounts:

- for Contracts whose total value is less than or equal to €50,000: €150,000 per event and €300,000 for each year or part of a year that the Contract has been in force;
- for Contracts whose total value is greater than €50,000 but less than or equal to €100,000: €300,000 per event and €500,000 for each year or part of a year that the Contract has been in force;
- for Contracts whose total value is greater than €100,000 but less than or equal to €150,000: €500,000 per event and €1,000,000 for each year or part of a year that the Contract has been in force;

- for Contracts whose total value is greater than €150,000 but less than or equal to €500,000: €1,500,000 per event and €3,000,000 for each year or part of a year that the Contract has been in force;
- for Contracts whose total value is greater than €500,000: €3,000,000 per event and €5,000,000 for each year or part of a year that the Contract has been in force.

Related events will be treated as a single event.

The limitation of liability referred to above will not apply:

a. in the event of third-party claims for compensation in respect of death or personal injury;
b. in the event of intent or gross negligence on the part of the other Party or its staff;
c. in the event of an agreement concluded between the Parties under article 9, paragraph 2: to claims for compensation in relation to failure to comply with that agreement, including any fines imposed by the supervisory authority.

Article 15 Force majeure

15.1 In the event of temporary force majeure, the Supplier will immediately notify the Purchaser in writing after the circumstances bringing about force majeure have occurred, stating the cause of the force majeure. The Purchaser then has the right to choose between:

a. allowing the Supplier to defer compliance with its obligations under the Contract for a reasonable period of up to four weeks. If the Supplier is still unable to fulfil its obligations under the Contract when this time limit expires, the Purchaser has the right to cancel the Contract with immediate effect out of court, without being obliged to pay compensation or any costs to the Supplier; or
b. cancellation of the Contract with immediate effect out of court, without being obliged to pay compensation or any costs to the Supplier.

15.2 In the event of long-term force majeure on the part of the Supplier, the Supplier will immediately notify the Purchaser and the Purchaser has the right to cancel the Contract with immediate effect out of court, without being obliged to pay compensation or any costs to the Supplier.

15.3 The term 'force majeure' is in any event understood not to include: staff shortages, strikes, staff illness, shortages of raw materials, transport problems, breach of obligations by suppliers, failures in the Supplier's production process and liquidity or solvency problems on the part of the Supplier, or failures on the part of third parties engaged by the Supplier.

Article 16 Cancellation

16.1 Without prejudice to the other provisions of the Contract, either Party may cancel the Contract in full or in part out of court by registered letter, without being obliged to pay any compensation to the other Party, if the other Party is in default or compliance is temporarily or permanently impossible, unless the breach does not warrant cancellation in view of its exceptional nature or limited importance.

16.2 In the event of force majeure, the Purchaser has the right to cancel the Contract in accordance with the provisions of article 15.

16.3 The Purchaser may cancel the Contract with immediate effect out of court by registered mail, without being required to send any demand or notice of default, and without being obliged to pay the Supplier any compensation, if the Supplier applies for or is granted a provisional or definitive suspension of payments, files for bankruptcy, is declared bankrupt, if its business is wound up, if it ceases trading, if a substantial proportion of its assets are seized, if it is deemed on any other grounds to be no longer capable of fulfilling its obligations under the Contract, if bribery or conflicts of interest as referred to in article 21 occur, or if the Supplier undergoes a merger or division.

16.4 If the Contract is cancelled, the Supplier will repay the undue amounts already paid to it by the Purchaser, plus the statutory interest on the amount paid, commencing on the date it was paid. If the Contract is partially cancelled, the Supplier is obliged to repay only the payments relating to the cancelled part.

Article 17 Retention of right to demand compliance

If one of the Parties fails to demand compliance with any provision within a time limit set by the Contract, this will not affect its right to demand compliance at a later date, unless the Party in question has expressly accepted the non-compliance in writing.

VI MISCELLANEOUS

Article 18 Documentation

18.1 The Supplier will provide the Purchaser with clear, adequate Documentation, drawn up in Dutch or another agreed language, on the characteristics and functionalities of the Product.

18.2 The Purchaser has the right to reproduce, amend and publish the Documentation for use within its organisation without making further payment provided the copyright marks present on the documentation are retained.

18.3 The Supplier indemnifies the Purchaser against claims that third parties might enforce on the ground of a copyright accruing to them in relation to the Documentation.

Article 19 Assignment of rights and obligations under the Contract

19.1 Neither Party is entitled to transfer rights and obligations arising from the Contract to third parties without the written consent of the other Party. The other Party will not withhold its consent without reasonable grounds. It may attach conditions to its consent.

19.2 Paragraph 1 does not apply to the establishment of limited rights, such as a right of pledge.

Article 20 Insurance

20.1 The Supplier has taken out and will retain in accordance with generally accepted standards adequate and customary insurance cover for business liability, including product or other liability for damage caused to persons or the Purchaser's property.

20.2 At the Purchaser's request, the Supplier will immediately present either the original or a certified copy of the policies and proof of the payment of premium for the insurance referred to in paragraph 1, or a statement from the insurer to the effect that the insurance exists. The insurance premiums owed by the Supplier are deemed to be included in the agreed prices.

Article 21 Bribery and conflicts of interest

21.1 The Parties will not offer to each other or to third parties, or ask for, accept or obtain a promise of, from each other or third parties, whether for themselves or for any other Party, any gift, reward, compensation or benefit of any form whatsoever if this could be construed as constituting an illicit practice. Such a practice may constitute grounds for cancelling the Contract either in full or in part.

21.2 If it transpires that one of the Purchaser's subordinates was in the Supplier's employment, regardless of whether or not such employment was paid, during the formation of the Contract, and that the Purchaser was not informed of this prior to the signing of the Contract, the Purchaser may cancel the Contract with immediate effect out of court, without being required to give any notice of default or to pay any compensation.

Article 22 Invalidity

If one or more provisions of these Purchasing Conditions or the Contract are found to be invalid or are nullified by a court, the remaining provisions will retain their legal force. The Parties will consult on the former provisions in order to make alternative arrangements. The alternative arrangements must not undermine the purpose and the purport of these Purchasing Conditions or the Contract.

Article 23 Follow-up order

The Contract does not entitle the Supplier to any follow-up orders.

Article 24 Publicity

The Supplier may not refer to the Contract either implicitly or explicitly in publications (including press releases) or advertisements and may use the Purchaser's name as a reference only with the Purchaser's consent.

Article 25 Long-term obligations

Provisions which by their nature are intended to persist after the Contract has been performed will remain in force after the expiry of the Contract. These provisions include in

any event the provisions relating to guarantee (article 4), confidentiality (article 8), non-performance (article 13), liability (article 14), cancellation (article 16.4), documentation (article 18), and disputes and applicable law (article 26).

Article 26 Disputes and applicable law

26.1 Any dispute between the Parties in relation to the Contract will only be submitted to the competent court in the district of The Hague, unless the Parties agree an alternative means of dispute resolution.

26.2 The Contract is governed by Dutch law. The applicability of the provisions of the United Nations Convention on Contracts for the Sale of Goods (the 'Vienna Sale Convention') is precluded.