

# General Purchasing Conditions for Products and Services GVB 2018

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## I. General

### Article 1. Definitions

The following terms are capitalised in these general terms and conditions and defined as follows:

1. *Contractor*: the counterparty of GVB.
2. *Services*: the work the Contractor is to perform for GVB under the terms of the Contract.
3. *Documentation*: the manuals or other user instructions accompanying the Product in Dutch or another language agreed between the Parties.
4. *GVB*: GVB Holding N.V. or one of the subsidiaries.
5. *Inspection*: the Inspection of the Product for visibly observable defects and non-conformity carried out at GVB's request on the Contractor's premises prior to Delivery or on GVB's premises after Delivery.
6. *Delivery*: the delivery of the Product by the Contractor on the basis of the Contract.
7. *Further Contract*: Contract between GVB and the Contractor which is concluded by means of a separate Written order by which Products or Services are called off under the Framework Contract, whether or not following a further offer made by the Contractor within the conditions of the Framework Contract.
8. *Contract*: everything that has been agreed in writing between GVB and the Contractor, including the associated appendices.
9. *Party or Parties*: GVB or the Contractor respectively, or GVB and the Contractor jointly.
10. *Contractor's Staff*: the members of staff or assistants used by the Contractor for the purpose of performing the Contract for whom the Contractor is responsible under the terms of the Contract.
11. *GVB's Staff*: the staff made available by GVB under the Contract.
12. *Framework Contract*: a long-term or annual agreement between GVB and the Contractor relating to prices and conditions of the Products and Services to be delivered by the Contractor, without GVB having any obligation to purchase.
13. *Written/In Writing*: this also means 'by electronic means', including e-mail.
14. *Terms and Conditions*: these General Purchasing Conditions for Products and Services of GVB.
15. *Working Day*: calendar day, except weekends and generally recognised public holidays or equivalent days within the meaning of Section 3, subsection 1-3 of the General Extension of Time Limits Act (*Algemene Termijnenwet*).
16. *Product*: the movable or immovable properties to be delivered to the GVB by the Contractor under the Contract.

### Article 2. Applicability and order of priority

1. These Terms and Conditions apply to a request for an offer by GVB, to the offer made by the Contractor, to all GVB's orders and to Contracts and follow-up agreements concluded between the Parties.
2. Amendments or additions to the Contract or derogations from the Terms and Conditions (or parts of them) are binding only if they have been explicitly agreed in writing between the Parties.
3. If there is any inconsistency between the Dutch text of these Terms and Conditions and translations of them, the Dutch text will prevail.

4. Any terms and conditions applied by the Contractor, to which the Contractor refers in its quotation, order confirmation, correspondence or otherwise, do not apply and are hereby expressly excluded.

### Article 3. Conclusion of the Contract

1. The Contract comes into effect when GVB accepts the Contractor's offer In Writing.
2. If GVB places a Written order that deviates from the Contractor's offer or if GVB places a Written order that has not been preceded by an offer from the Contractor, the Contract is concluded either if GVB receives the signed copy of the order confirmation from the Contractor within 14 days of sending the order or if the Products or Services are supplied within that period in accordance with the order. In this case, the Contract will be concluded when the copy of the order confirmation is received or when the Delivery or Service is accepted.
3. All acts that the Contractor performs prior to the conclusion of the Contract are at the Contractor's risk and expense. GVB will not be liable for any damage that the Contractor sustains as a result of the failure to conclude the Contract.
4. The Contractor will maintain the validity of an offer for a period of three months or any longer term indicated in GVB's request to make an offer.
5. In the case of a Framework Contract, the Further Contract will be deemed to have been concluded in each case when the Contractor receives the Written order for full or partial delivery within the context of the Framework Contract. The Contractor is obliged to deliver once it has received a Written order from GVB.

## II. Performance of the Contract

### Article 4. Warranty

1. The Contractor guarantees that the delivered Products and Services comply with the Contract and are in accordance with laws and regulations.
2. The Contractor warrants that the Services to be provided by it or on its behalf will be performed in a professional manner.
3. The Product must be sound, without defects, of good quality and fit for the intended purpose and, unless stipulated otherwise in the Contract, new.
4. The Contractor warrants the absence of visible or invisible defects during the agreed warranty period or, in the absence thereof, during the warranty period that is customary in the sector, which must be at least for two years after Delivery. The warranty period will be extended by a period equal to the period(s) during which the Products could not, or could not fully, be used as a result of a defect. New warranty periods equal to those referred to in the first sentence of this paragraph will apply to the replacement Products and to replaced or repaired parts of those Products, including those parts of the Products on which replaced or repaired parts can have an effect.
5. The Contractor warrants that it can supply parts for the delivered Products for a period of 10 years after delivery, unless a different period is specified in the Contract.
6. The Contractor warrants that the delivered Product is free of any special encumbrance or restriction that GVB has not accepted explicitly and in writing. The Contractor indemnifies GVB against all claims in this regard.

### Article 5. Replacement of staff responsible for performing the Contract

1. Without the prior consent of GVB, the Contractor may not temporarily or permanently replace staff who are responsible for performing the Contract. GVB will not withhold its consent without good reason and may attach conditions to its consent. The fees charged for the original staff may not be raised if they are replaced.
2. If GVB wishes to replace staff who are responsible for performing the Contract, because it feels that this is either necessary or desirable for the proper performance of the Contract, it will give the

Contractor Written notice of this, stating reasons, and the Contractor will comply with GVB's request. The fee charged will not be any higher than that laid down in the Contract for the staff replaced.

3. If staff responsible for performing the Contract are replaced, the expertise, qualifications and experience of the replacement staff assigned by the Contractor must be at least equal to the original staff or must meet the criteria agreed by the Parties in this regard.

#### **Article 6. Use of GVB's property**

1. If GVB makes goods belonging to it available to the Contractor, the Contractor will receive these goods on loan for the duration of the Contract. Conditions may be attached to the loan of property.
2. The Contractor will be obliged to mark the goods referred to in this article as the recognisable property of GVB, to maintain them in good condition and to insure them at its own expense in respect of all risks as long as it acts as holder of those goods.
3. The goods referred to in this article will be made available to GVB immediately upon request or at the same time as the last supply of the Products to which the goods relate.
4. The Contractor will not use the Products (or allow them to be used) for or in connection with any purpose other than Delivery to GVB, unless GVB has given prior Written permission for this purpose.

#### **Article 7. Subcontracting and cooperation with third parties**

1. In performing the Contract, the Contractor may make use of third-party services only after it has obtained GVB's consent. GVB will not withhold its consent without good reason. It may attach conditions to its consent.
2. The fact that GVB has given its consent does not affect the Contractor's own responsibility and liability for discharging the obligations imposed on it under the Contract, and for discharging the obligations imposed on it as an employer under tax and social insurance law.
3. If it follows from the Contract that the Contractor must coordinate the Services that it is to provide with work or services that must be performed or provided by third parties that GVB has engaged, the Contractor will be obliged to consult with those other parties and with GVB in order to discuss, determine and subsequently implement the conditions for cooperation.

### **III. Relationship between the Parties and supervision**

#### **Article 8. Contact persons**

1. The Parties will each designate a contact person who will be responsible for maintaining contact in relation to performance of the Contract. The Parties will notify each other of the person they have appointed as their contact person.
2. Contact persons may represent and bind the Parties only as regards performance of the Contract. They may not amend the Contract.

#### **Article 9. Confidentiality**

1. The Contractor may not in any way divulge any information relating to the Contract, the content of the Contract, GVB or GVB's activities that comes to its knowledge during performance of the Contract, except insofar as it is compelled to divulge such information under a statutory regulation or court ruling or if GVB has given its prior Written consent. GVB may attach conditions to such consent.
2. The Contractor will impose the duty of confidentiality on all persons it engages in performance of the Contract – including its own Staff – and warrants that these people will observe that duty.
3. GVB is entitled to have the persons referred to in paragraph 2 of this article sign non-disclosure

- agreements, where appropriate.
4. The Contractor may not in any way divulge the results of the Services performed or provide any information on the results to third parties unless GVB has given its prior Written consent for this purpose. GVB may attach conditions to such consent.
  5. After termination of the Contract, the Contractor must hand over to GVB, immediately at GVB's request, information that the Contractor has in its possession for the purpose of performing the Contract, with the exception of information that the Contractor is required to have in its possession on the basis of legislation or generally accepted professional rules applicable to the Contractor.

#### Article 10. Processing of personal data

1. The Contractor warrants that it will process personal data properly, carefully and in accordance with applicable laws and regulations. The Contractor will implement appropriate technical and organisational measures to ensure a level of security commensurate with the risks involved and personal data will not be processed in countries outside the European Economic Area without GVB's prior consent. The measures that the Contractor implements will also be geared to prevent unnecessary collection and further processing of personal data.
2. The Contractor may not at any time use the personal data provided to it, or have them used, in whole or in part, in any way other than for performance of the Contract, except where statutory obligations provide otherwise or GVB has given its prior Written consent.
3. If the Contractor processes personal data for GVB for the purpose of the Contract, GVB has drawn up a so-called 'processing agreement' which the Contractor is required to sign. The Contractor undertakes to comply with the provisions of the processing agreement, record the measures it will take in writing and enable GVB to fulfil its obligations under the applicable laws and regulations.

#### Article 11. Security

1. The Contractor's Staff involved in performance of the work, insofar as that work is performed on GVB's premises, must comply with GVB's security procedures and internal rules, and perform the work during the times stipulated by GVB. GVB will inform the Contractor in good time about these procedures and rules.
2. Before it commences performance of the Contract, the Contractor must familiarise itself with the circumstances at GVB's site or in GVB's premises where the work is to be performed and that could affect performance of the Contract. Costs related to any delay in performance of the Contract that are caused by the aforementioned circumstances will be at the Contractor's risk and expense.
3. GVB may require certificates of good conduct to be produced in respect of the Contractor's Staff, no later than three Working Days before they start work on GVB's premises.
4. GVB may carry out security checks on members of the Contractor's Staff, in accordance with the rules usually applied by GVB. The Contractor must cooperate fully in such checks. Based on the results of a security check, GVB may refuse to allow the person in question to work on the Contract, without giving any reasons.

## IV. Financial provisions

#### Article 12. Prices

1. Prices are based on Delivery Duty Paid (DDP) within the meaning of Incoterms in force on the day of the offer.
2. Prices are in euros and exclude VAT.
3. Prices are deemed to include the full service.
4. Prices are fixed and non-refundable, unless the Contract specifies the circumstances that may lead to price adjustment and the manner in which such adjustment should be made.

### Article 13. Changes and contract variations

1. Unless the parties agree otherwise in Writing, GVB will be authorised at all times to change In Writing any order or assignment that has been placed, even after the Contract has been concluded. The Contractor will make all changes indicated by GVB, provided that these changes are reasonably practicable. If the Contractor believes that a change is not reasonably practicable, it must notify GVB In Writing within ten (10) working days. The Contractor may not make any changes without GVB's Written consent.
2. Additional work is eligible for compensation only with GVB's prior Written consent. In order to obtain such an order, the Contractor will issue a Written quotation specifying the amount of additional work to be expected, its duration and cost. Any additional work to be performed by the Contractor will be subject to the provisions of the Contract, including those on fees and discounts, where relevant, insofar as these have not been amended by the further Written order. When submitting a quotation, the Contractor may not impose extra or more stringent terms and conditions than the original Terms and Conditions, unless it does so with GVB's consent.
3. Should any additional requirements or amended opinions of GVB, or any changes to the statutory regulations applicable to the work in question lead to the work performed by the Contractor under the Contract becoming demonstrably more demanding or extensive, this is considered to be additional work for which the Contractor may charge a fee. Extra activities, amended opinions or changes to statutory provisions which the Contractor could have foreseen when the Contract was signed will not be regarded in any case as additional work. If a Party regards a particular request to be additional work, it will notify the other Party thereof as quickly as possible In Writing. If the Written quotation as referred to in paragraph 1 is not issued within 14 days of a Party finding that additional work is involved, the Contract will be performed based on the original price, delivery period and other conditions.
4. Should any amended opinions of GVB or any changes to the statutory regulations applicable to the work in question lead to the work performed by the Contractor under the Contract becoming demonstrably less demanding or extensive, this constitutes less work for which GVB is entitled to a discount. If a Party regards a particular change as less work, it will notify the other Party thereof In Writing as quickly as possible. If a fixed price has been agreed, the Parties will consult to agree on the value of the less work that will be offset with the agreed price.
5. If GVB is of the opinion that the consequences of the changes are unreasonable for the price or the delivery period, it will be entitled to cancel the Contract or to terminate it in whole or in part by means of a Written notification to the Contractor, without being obliged to pay any compensation in that respect.

### Article 14. Invoicing

1. The Contractor will send the invoice electronically to [crediteuren@gvb.nl](mailto:crediteuren@gvb.nl), so GVB can receive and process it electronically, in accordance with the specifications issued by GVB.
2. The invoice must comply with the statutory requirements, which can be consulted at [www.belastingdienst.nl](http://www.belastingdienst.nl).
3. The digital invoices file must also meet the following requirements:
  - a. File format: PDF;
  - b. DPI: minimum 200;
  - c. Maximum number of invoices per PDF: 1;
  - d. Addition of attachments: behind the invoice in the same PDF file;
  - e. Maximum number of order numbers per invoice: 1;
4. The Contractor sends the invoice to GVB. Each invoice must state the date, the relevant GVB order number, the relevant name of the operating company and the VAT amount. If applicable under Article 29, the Contractor will also enclose a copy of the notice of acceptance with the invoice, together with any other information requested by GVB.
5. If it has been agreed that the invoice will be a retrospective settlement based on actual costs, the Contractor will compile an itemised invoice in a format possibly further specified by GVB.



6. The Contractor will present separate invoices for any additional work after the additional work in question has been completed and accepted by GVB. The invoices will explicitly state the nature and scope of the additional work performed, which will be itemised on the basis of authentic documents.

#### Article 15. Payment and invoice audits

1. GVB will pay the Contractor the amount owing under the Contract no later than 30 days after receiving the relevant invoice, provided it complies with the provisions of the Contract, notwithstanding the provisions of Article 29, paragraph 5 and Article 31, paragraph 4.
2. GVB will be entitled to suspend payment of an invoice if it is of the opinion that the Products that have been delivered or the Services that have been provided are not in accordance with the Contract or are defective, or if the Contractor has otherwise failed to comply with its obligations.
3. GVB will be entitled to set off any invoice amounts that are due against any other amounts that the Contractor owes GVB.
4. GVB makes all payments subject to the reservation of all its rights.
5. GVB may instruct an accountant that it designates, as referred to in Section 2:393, paragraph 1 of the Dutch Civil Code, to audit the accuracy of the invoices submitted by the Contractor. The Contractor will allow the accountant to inspect its books and documents, and supply him with any information he requests. This audit is confidential and does not involve any more than is necessary to check the invoices. The accountant will report as quickly as possible to both Parties. GVB will pay the cost of the accountant's audit, unless the accountant's work reveals that the invoices in question are not accurate or complete, in which case the Contractor will be liable for the cost of the audit.
6. GVB may defer payment of all or part of an invoice, about which the Parties have failed to reach consensus, for the duration of the accountant's audit. GVB will exercise this right only if it has reasonable doubts about the accuracy of the invoice in question.
7. The Contractor is not entitled to suspend or terminate its work on account of GVB's failure to pay an invoice within the stipulated time limit, or if GVB does not pay an invoice because it suspects that the invoice is inaccurate or because the Services have not been properly performed.

#### Article 16. Security

1. GVB may require the Contractor to provide adequate security in the form requested by GVB, including a bank guarantee, as security for the performance of its obligations under this Contract. There are no costs involved for GVB in this respect.
2. The Contractor must comply with this requirement immediately on request of GVB.
3. If GVB requires a bank guarantee, this must be issued by a banking institution of good repute that is admitted as a bank in the Netherlands or by an equivalent European banking institution.

## V. Non-Performance

#### Article 17. Impending delays

1. If progress of the work is in danger of being delayed or a period as referred to in Article 18, paragraph 1 is in danger of being exceeded, the Contractor will immediately notify GVB In Writing, stating the cause and consequences thereof. The Contractor will also propose measures to avoid further delay.
2. Consenting to the proposed measures does not imply that GVB acknowledges the cause of the impending delay, and it does not affect any other rights or claims of GVB under the Contract or the provisions of Article 18, paragraph 1.



## Article 18. Liability and force majeure

1. Deadlines are fixed and strict. If a deadline is exceeded, the Contractor will be in default without the need for any notice of default.
2. The Contractor is liable for all damage that GVB or third parties sustain because of a defect in the Products that the Contractor delivers or in the Services that the Contractor provides, as a result of which they do not provide the safety that can reasonably be expected of them.
3. The Contractor is held liable for all damage that GVB or third parties sustain as a result of acts or omissions on its part or on the part of its personnel or any parties that it has engaged in connection with performance of the Contract.
4. If the Contractor makes use of property belonging to GVB as referred to in Article 6 for the performance of the Services, it will be liable for any damage caused to such property.
5. If damage of whatever nature is caused to the Contractor or third parties as a result of the Contractor using GVB's property for the purpose of performing the Services, this damage will be entirely at the Contractor's risk and expense.
6. The Contractor's liability is limited to €1,000,000 per event, subject to a maximum of €2,500,000 per year. Related events are treated as a single event.
7. The aforementioned limitation of liability will not apply:
  - a. in the event of third-party claims for compensation resulting from death or personal injury;
  - b. in the event of intent or wilful recklessness on the part of the Contractor or the Contractor's Staff;
  - c. in the event of infringement of intellectual property rights.
  - d. If a processing agreement has been concluded between the Parties pursuant to Article 10, paragraph 3: with regard to claims for compensation, including penalties imposed by the supervisory authority, for failure to comply with that processing agreement.
8. The Contractor will not be liable for any indirect damage, which in any event includes loss suffered and loss of profits. The Contractor will never be liable for damage that is the direct or indirect result of acts of terrorism, malicious contamination, or government measures related to the threat or consequences of acts of terrorism or malicious contamination.
9. The Contractor is liable for all obligations in respect of the Contractor's Staff, including those arising under tax and social insurance law and the Foreign Nationals (Employment) Act (*Wet Arbeid Vreemdelingen*). The Contractor indemnifies GVB against any liability in this regard. The limitation of liability referred to in paragraph 6 does not apply.
10. The Contractor indemnifies GVB against third-party claims for compensation of damage in connection with performance of the Contract, with due observance of the provisions of paragraphs 4 and 5.
11. For the application of this article, GVB's subordinates and non-subordinates will be regarded as third parties.
12. A failure to fulfil an obligation under the Contract will not lead to liability of the Contractor insofar as this failure is caused by force majeure, as referred to in Section 6:75 of the Dutch Civil Code. The term 'force majeure' does not in any case include staff shortages, strikes in the Contractor's company, staff illness, shortages of raw materials, transport problems, late delivery or the unsuitability of items required for performance of the work, liquidity or solvency problems on the part of the Contractor or failures on the part of third parties engaged by the Contractor.

## Article 19. Penalty

1. If there is a breach of the obligations set out in Articles 9 and 23, the Contractor, without the need for any further action or formality, will owe GVB an immediately due and payable fine of €25,000 for each breach, without GVB having to prove any loss or damage and without prejudice to GVB's other rights, including the right to specific performance and full compensation by the Contractor, from which compensation the penalty will not be deducted.
2. The total amount of the penalties owed by the Contractor on the basis of this article is capped at €100,000.
3. If a penalty is included elsewhere in the Contract, this will be payable immediately and without notice of default being required, without prejudice to GVB's other rights, including the right to specific performance and full compensation by the Contractor, from which compensation the penalty shall not be deducted.

## VI. Miscellaneous

### Article 20. Intellectual property rights

1. The Contractor warrants that rendering of the agreed performance or the Products to be delivered by the Contractor and their use by or on behalf of GVB, all in the broadest sense, does not and will not infringe any intellectual property right to which third parties are entitled.
2. Unless agreed otherwise, all copyrights that may be exercised in relation to the results of the Services performed by the Contractor are vested in GVB, irrespective of where and when they may be exercised. Pursuant to the Contract, the Contractor assigns such intellectual property rights to GVB as soon as they arise and GVB hereby accepts assignment of these rights.
3. All database rights that may be exercised in relation to the results of the Services performed by the Contractor are vested in GVB, irrespective of where and when they may be exercised. Pursuant to the Contract, the Contractor assigns such intellectual property rights to GVB as soon as they arise and GVB hereby accepts assignment of these rights.
4. Insofar as the results of the Services performed are achieved partly or wholly using existing intellectual property rights that are not vested in GVB, the Contractor grants GVB a non-exclusive and irrevocable right of use for an indefinite period. In such an event, the Contractor warrants that it is entitled to grant the aforesaid right of use.
5. Insofar as a separate instrument needs to be executed for the assignment of the rights referred to in Articles 20, paragraphs 2 and 3, the Contractor hereby irrevocably authorises GVB to draft such an instrument and sign it also on the Contractor's behalf, notwithstanding the Contractor's obligation to cooperate in the assignment of these rights as soon as GVB requests it to do so, without attaching any conditions to its cooperation.
6. If there is a difference of opinion between the Parties on the intellectual property rights referred to in Article 20, paragraphs 2 and 3, in relation to the results of the Services performed, it will be assumed, in the absence of proof to the contrary, that the rights are vested in GVB. In all cases, GVB may continue to use the results of the Services performed in the manner intended by the Contract.
7. The Contractor hereby renounces any moral rights against GVB that it is entitled to under the Copyright Act, insofar as the relevant regulations allow such renunciation. Acting both in its own capacity and on behalf of its Staff working on the Contract, as authorised to this end, the Contractor renounces any moral rights against GVB to which its Staff may be entitled, insofar as the relevant regulations allow such renunciation.
8. Intellectual property rights arising from or applying to the Products to be delivered and the results of the Services performed, other than those referred to in Article 20, paragraphs 2 and 3, may never be exercised against GVB, and the Contractor assigns a non-exclusive and irrevocable right of use to such rights to GVB, free of charge, for an indefinite period for the purposes of the Contract's objectives.
9. The Contractor indemnifies GVB against all claims brought by third parties in respect of any infringement of their intellectual property rights, including equivalent claims relating to knowledge, unlawful competition and similar aspects. The Contractor is obliged to take any action that may help to prevent stagnation and to limit additional costs or losses incurred as a result of such infringements, and to do so at its own expense.
10. Without prejudice to the above provisions, GVB may, if a third party holds it liable for an infringement of intellectual property rights, cancel the Contract in writing, in full or in part, and out of court, notwithstanding its other rights in respect of the Contractor, including but not limited to any right to compensation. GVB will not exercise its right to cancel the Contract until it has first consulted the Contractor.

### Article 21. Assignment of rights and obligations under the Contract

1. The Parties may not assign their rights and obligations under the Contract to third parties without the consent of the other Party. Consent will not be withheld unreasonably. The Parties may attach

- conditions to their consent.
2. The establishment of limited rights does not require the consent of the other Party.

#### Article 22. Insurance

1. In order to fulfil its obligations under the Contract, the Contractor has insured itself in an appropriate and customary manner with a reputable insurance company and will keep itself insured against the following risks:
  - a. professional liability; or
  - b. business liability, including product and other liability for damage caused to persons or GVB's property;
2. At GVB's request, the Contractor will immediately present either the original or certified copies of the policies and proof of payment of premium for the insurances referred to in paragraph 1, or a statement from the insurer to the effect that these policies exist and the premium has been paid. The Contractor will not terminate either the insurance contracts or the terms applying to them without GVB's prior Written consent. The insurance premiums owed by the Contractor are deemed to be included in the agreed prices and fees.

#### Article 23. Bribery and conflicts of interest

1. The Parties will not offer to each other or third parties, nor ask for, accept or obtain a promise of any gift, reward, compensation or benefit of any form whatsoever, from each other or third parties, whether for themselves or for any other party, if this could be construed as constituting an illicit, improper or unethical practice. Notwithstanding the provisions of Article 19, such a practice may constitute grounds for cancelling the Contract either in full or in part.
2. Should it transpire that a member of GVB's Staff holds an ancillary position, paid or otherwise, at the Contractor, or held such an ancillary position at the Contractor at the time negotiations were ongoing for conclusion of the Contract, and GVB was not informed of this prior to signing the Contract, GVB may cancel the Contract with immediate effect, without being required to give any notice of default or to pay any compensation.
3. The Contractor declares and warrants in respect of the Contract that neither itself, its business nor one or more of its employees or affiliated legal entities, employees of such legal entities or advisers are presently involved or have previously been involved in consultations or agreements with other prospective suppliers regarding:
  - a. price setting; or
  - b. the manner in which offers are made; or
  - c. the allocation of the work; or
  - d. offering or giving money or intangible advantages having monetary value to one or more employees of GVB or third parties engaged by GVB who are directly or indirectly involved in or who can exercise any influence over the decision in respect of awarding the assignment, in a manner that could be contrary to the provisions of the Dutch Competitive Trading Act (*Mededingingswet*) or Articles 81 and 82 of the EC Treaty.

#### Article 24. Publications or advertisements

The Contractor may not refer to the Contract or its conclusion either implicitly or explicitly in publications (including press releases and digital statements) or advertisements and may use GVB's name as a reference or otherwise only with GVB's consent.

#### Article 25. Long-term provisions

Provisions which by their nature are intended to persist after the Contract has been performed will remain in force after expiry of the Contract. These obligations include at least the provisions on warranties (Article 4), liability and force majeure (Article 18), intellectual property rights (Article 20), confidentiality (Article 9), documentation (Article 34) and disputes and applicable law (Article 26).

#### Article 26. Disputes and applicable law

1. Disputes will be settled by the competent court for this purpose in the judicial district of Amsterdam.
2. The Contract is governed by Dutch law.
3. The Vienna Sales Convention does not apply.

#### Article 27. Other provisions

1. Amendments or additions to the Contract or derogations from the Terms and Conditions or parts of them apply only if they have been agreed In Writing.
2. Verbal commitments by and arrangements made with employees of GVB are not binding on GVB until and unless they have been accepted In Writing by persons authorised to do so by GVB.
3. If one or more provisions of the Terms and Conditions or the Contract are found to be invalid or are nullified by a court of law, the remaining provisions of the Terms and Conditions or the Contract will retain their legal force. The Parties will consult on the invalid or nullified provisions in order to make an alternative arrangement. The alternative arrangement must not undermine the purpose and purport of the Terms and Conditions or the Contract.

## VII. Provisions on the performance of Services

#### Article 28. Performance of Services

1. The work will be performed at the agreed time and place or, in the absence thereof, at the time and place to be indicated by GVB.
2. GVB will be authorised to control or establish the identity of Staff whom the Contractor has involved in the performance of the Contract based on a document as referred to in Section 1 of the Dutch Compulsory Identification Act (*Wet op de Identificatieplicht*).
3. The Contractor must ensure that its presence or that of its Staff does not hinder the undisturbed progress of GVB's business activities.

#### Article 29. Assessment and acceptance

1. GVB will assess the results of the Services within a period of 30 days after the completion date of the Services, unless the Parties have expressly agreed on a different period. If GVB finds that the results of the Services are satisfactory, it will accept them by means of a Written notice to the Contractor.
2. If GVB finds that the results of the Services are unsatisfactory, it will send a Written notice of non-acceptance to the Contractor.
3. GVB may have the results of the Services assessed by third parties.
4. If GVB has not notified the Contractor of its assessment within 30 days of the date of completion of the Services, it will be deemed to have accepted the results.
5. GVB is not obliged to make any payment to the Contractor until the results have been accepted.
6. If the Services provided are not in accordance with the warranties given in Article 4, the Contractor must take all measures necessary and perform all work necessary, within a reasonable term, and provide alternatives to ensure that the Services concerned do comply with the Contract. If the Contractor fails to comply with its obligations in this respect GVB will be entitled, without prejudice to any of its other rights, to take all measures necessary or have such measures taken, and to perform all work necessary or have such work performed in order to ensure that the Services concerned comply with the Contract.

### Article 30. Employment conditions

1. In performing the Services, the Contractor will comply with the applicable legislation and regulations on labour, employment conditions and the collective labour agreement applicable to it and its staff.
2. The Contractor will record all agreements on employment conditions made for performance of the Contract in a clear and accessible manner.
3. Upon request, the Contractor will immediately grant competent authorities access to these agreements on employment conditions and cooperate with any inspections, audits or salary validations.
4. Upon request, the Contractor will immediately grant GVB access to the agreements on employment conditions referred to in paragraph 2 if GVB considers this necessary to prevent or deal with a salary claim concerning work carried out for performance of the Contract.
5. The Contractor will impose the obligations arising from the previous paragraph in full on all parties with which it enters into contracts for performance of the Contract and will also stipulate that these parties impose these obligations in full on all parties with which they, in turn, enter into contracts for performance of the Contract.

## VIII. Provisions concerning the Delivery of Products

### Article 31. Delivery of Products

1. Products are delivered Delivery Duty Paid (DDP), within the meaning of Incoterms in force on the day of the offer, on the date and at the place indicated by GVB.
2. Delivery of the Product earlier than the agreed delivery date(s) or period(s) is possible only after GVB has given its prior Written consent and this will not alter the agreed payment date.
3. GVB has the right to defer Delivery, unless this would place a disproportionate burden on the Contractor. The Contractor is obliged to store the Product for GVB at no additional cost until the deferred delivery date, unless this would place a disproportionate burden on the Contractor, in which case the Parties will hold discussions to find a reasonable arrangement acceptable to both Parties. The provisions of articles 18 and 31, paragraph 3 apply accordingly to the Delivery deferred by GVB, except that the Contractor will be in default, without prior notice of default, only after the deferred delivery date(s) or period(s) have been exceeded.
4. GVB is not obliged to make any payment to the Contractor until Delivery of the Product has been accepted.
5. Partial deliveries are not permitted without GVB's Written consent.
6. The Contractor will ensure proper packaging and such security and transport of the Products that they reach the agreed destination in good condition and can be unloaded there safely.
7. The Contractor will remove all packaging, including return packaging, free of charge.
8. The Contractor must ensure that its presence or that of its Staff does not hinder the undisturbed progress of GVB's business activities.
9. GVB is entitled not to take receipt of the Products being delivered if the previous paragraphs of this article have not been observed.
10. Unless otherwise specified in the Contract, ownership of the Products passes from the Contractor to GVB at the time of Delivery, unless the delivered Products are rejected in accordance with Article 32.
11. GVB is authorised to require that ownership of the Products or the materials and parts intended for this purpose is transferred earlier. The Contractor will then mark the Products or the materials and parts intended for this purpose as identifiable property of GVB and indemnify GVB against loss, damage and any exercise of third-party rights.

### Article 32. Inspection

1. The Product will be inspected by or on behalf of GVB on its premises after Delivery. At GVB's request, GVB or a third party that it designates may inspect the Product on the Contractor's



- premises prior to Delivery. However, GVB is not obliged to carry out such an Inspection.
2. If GVB wishes to inspect the Product at the Contractor's premises:
    - a. the Contractor will have the Product ready for Inspection at a time that allows the agreed delivery times to be met;
    - b. the Contractor will, upon request and at no cost to GVB, cooperate with the Inspection and provide GVB with a suitable location and reasonable assistance in terms of staff and materials;
    - c. the Inspection, if the Contractor so desires, will be conducted in its presence or in the presence of an expert designated by it. The associated costs will be borne by the Contractor.
  3. If after Inspection, GVB rejects the Product to be supplied, the Contractor is obliged, without prejudice to all other rights or claims of GVB, to provide without delay, at its own expense and risk, the missing, repaired or replacement Product for a new Inspection. The provisions of Article 32 will then apply in full. Rejection by GVB during the first or an earlier Inspection will not lead to the agreed delivery period being extended.
  4. Unless GVB accepts the delivered Products that are not in compliance with the warranties stipulated in Article 4 to be repaired, GVB will be entitled, if the Inspection was conducted on its premises, to return the Products concerned to the Contractor at the Contractor's risk and expense. In such cases GVB will be entitled to choose to have the Products replaced or to be credited for the purchase price. If the Contractor fails to comply with its obligation to repair or replace within a reasonable term, GVB will be entitled to repair or replace the Products itself, or to have them repaired or replaced by a third party, at the Contractor's expense, without prejudice to any of its other rights.
  5. Approval of the Product by or on behalf of GVB does not entail any recognition that the Product complies with the warranties given in accordance with Article 4 and does not affect any rights of GVB.

### Article 33. Environmentally hazardous substances

1. Before the Contract is concluded, the Contractor must give notice In Writing stating whether the Products to be delivered contain any environmentally hazardous substances that could be released during normal use or in the event of failures, repairs, maintenance, removal, storage, dumping, relocation, disposal or destruction of the Products concerned or during emergencies.
2. If that is the case, the Contractor must include proper instructions at the time of Delivery, containing preventative measures indicating how to prevent the release of such substances. The Contractor must moreover indicate the measures that must be taken in order to protect GVB and third parties if any such substances are released.
3. If the Services to be provided consist of provision of maintenance, performance of repairs or demolition work, the Contractor must ensure that waste materials are disposed of separately and that they are demonstrably dumped, stored or destroyed with due observance of the statutory requirements stipulated by the government.

### Article 34. Documentation

1. The Contractor will provide GVB with clear and adequate Documentation, drawn up in Dutch or another agreed language, on the characteristics and functionalities of the Product.
2. GVB may reproduce, amend and publish the Documentation for use within its organisation without any compensation being payable, provided that the copyright marks present on the documentation are retained.
3. The Contractor indemnifies GVB against claims that third parties might enforce on the ground of a copyright vesting in them in relation to the Documentation.

## IX. End of the Contract

### Article 35. Cancellation and notice of termination

1. Without prejudice to the other provisions of the Contract, either Party may cancel the Contract in full or in part by registered letter, without recourse to the courts, if the other Party is in default or compliance is permanently or temporarily impossible, unless the breach does not warrant cancellation in view of its exceptional nature or limited importance.
2. If one of the Parties is unable to discharge its obligations under the Contract as a result of force majeure, the other Party is entitled to fully or partially cancel the Contract out of court, by registered post and with due observance of a reasonable period, without its action creating any entitlement to compensation, although no earlier than 15 Working Days as from the date on which the circumstance that produced the force majeure arose.
3. GVB may cancel the Contract with immediate effect, out of court, by registered post and without being required to send any demand or notice of default, if the Contractor petitions for or is granted a provisional or definitive suspension of payments, petitions for bankruptcy, is declared bankrupt, if its business is wound up, if it ceases trading, if a substantial proportion of its assets are attached or if it is deemed on any other grounds to no longer be capable of discharging its obligations under the Contract.
4. If the Contract is cancelled, the Contractor will repay GVB any undue amounts already paid to it by GVB, plus the statutory interest on those amounts from the date on which they were paid. If the Contract is partially cancelled, the Contractor only has to repay payments relating to the part of the contract that has been cancelled.
5. GVB may also give Written notice of termination of the Contract at any time, subject to a 30-day notice period. In that case, there will be a settlement between the Parties based on the Products or Services delivered by the Contractor, insofar as these have been accepted and termination does not relate to an attributable breach of the Contractor, reasonably incurred costs and the future obligations already reasonably entered into for execution of the order. GVB is not obliged to compensate the Contractor in any other way for the consequences of terminating the Contract.