



## **General Purchasing Terms and Conditions of Imbema-Holland B.V. and its operating companies.**

As set forth in its Articles of Association, Imbema-Holland B.V. is established at Haarlem, The Netherlands, with its holding office at 1-7 Mauritsstraat.  
Chamber of Commerce number: 340118873

### **1. Applicability**

1.1. These GPTC (i.e.: General Purchasing Terms and Conditions) are applicable to all applications, quotations, offers, Orders, purchase orders, order confirmation, agreements and other legal acts concerning the delivery of Goods and/ or the execution of work(s) and/ or the execution of services and/ or other work and related activities.

1.2. By accepting this order or, as the case may be, confirmation of this assignment, assignee (i.e.: Vendor) acknowledges that the following GTPC apply to the transaction under consideration with Imbema-Holland B.V. or its relevant operating company (i.e.: Purchaser), all this while setting aside any of his own terms and stipulations insofar as these might deviate from these GPTC. Deviations from the GTPC under consideration shall only be operative if expressly agreed upon in writing between assignor and assignee.

1.3. If the contents of the agreement to which these GPTC apply deviate from the contents of these GPTC, the contents of the agreement shall prevail.

1.4. The invalidity of a provision from the agreement and/or from these GPTC has no consequences for the validity of the other provisions of the agreement and these GPTC.

1.5. Orders or, as the case may be, assignments (i.e.: assignments for the supply of Goods and/or services or, as the case may be, for the execution of operations within the framework of an agreement to contract work) are only binding upon assign or, if these assignments have been confirmed in writing by his purchase department.

### **2. Quotation and prices**

2.1. A request for quotation issued by Purchaser is non-binding. All costs involved in drawing up a quotation / offer shall be borne by Vendor (i.e.: counterparty).

2.2. A quotation of Vendor is irrevocable for at least six (6) weeks, unless Vendor has explicitly stated in writing in the quotation itself that it is revocable.



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2.3. The Vendor guarantees that the quotation(s) has/have been drawn up legitimately, and in particular that such quotation(s) has/have been accomplished without any agreement or mutually agreed acts with third parties in a bid to prevent or limit free competition and/ or increase prices.

2.4. The price determined in the purchase order is fixed for the duration of the agreement and shall include all costs for storage, transport, insurance, packaging, inspections, testing, certificates, necessary permits, instructions for use in the Dutch and/or English language, social security contributions, customs duties, levies and taxes with the exception of Value Added Tax (VAT), unless the purchase order indicates otherwise.

2.5. Costs of packaging, removal, storage or transportation can only be charged to Purchaser's account with the latter's written approval.

2.6. Additional work that Vendor could or should have foreseen in order to deliver the supplies according to the agreement is not considered additional work, nor is work resulting from incorrect and/or incomplete specifications, if drawn up, commissioned or accepted by Vendor.

2.7. Purchaser will only be obliged to pay for work not included in the purchase order (i.e.: additional work) if this work had been agreed upon with Purchaser in writing.

### **3. Risk, delivery and default**

3.1. Goods purchased and/or ordered remain for the account and the risk of Vendor until delivered. Delivery of these Goods will pass these into the ownership of the assignor.

3.2. Deliveries shall be made at the agreed venue and on the agreed time pursuant to the Incoterms of the International Chamber of Commerce as imposed on the purchase order(s) and/or agreement(s) and as applicable on the date of the purchase order. For all cases in which the purchase order(s) and/or agreement(s) do not impose any Incoterms, deliveries shall be made DDP (i.e.: Delivered Duty Paid) at the address stated on the purchase order(s).

3.3. Purchaser is entitled, without further notice of default and/or judicial intervention, to annul ("ontbinden" in the sense of section 6:265 of the Dutch Civil Code) the agreement(s) whether or not retrospectively, and if so desired, partly, and to return the Goods delivered for Vendor's account and risk if, upon inspection or



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otherwise, the Goods delivered appear not to answer to requirements that can reasonably be demanded or, as the case may be, do not conform to the description specified in the agreement or, as the case may be, appear to show hidden defects or, as the case may be, are not delivered within the specified delivery period or in the manner agreed upon, as well as in all other cases of default by assignee, all this without prejudice to Purchaser's power to enforce all rights ensuing from Vendor's default, including the right to claim replacement and/or damages.

### **4. Returns and warranty**

4.1. Purchaser shall retain the right to refuse and/or return (partial) deliveries for the account and risk of Vendor regardless the reason of refusal and/or returns. Purchaser shall retain this right for at least eight (8) days after delivery.

4.2. The warranty period for deliveries is two (2) years after delivery of Goods and/or Services by Vendor unless the purchase order issued by Purchaser refers to another warranty period and/or another time of commencement thereof.

4.3. The warranty issues by Vendor and any right on the part of Purchaser to invoke the warranty shall remain in force even if Purchaser shall have (partially) accepted the Goods and/or services and/or if Purchaser has (partly) terminated the agreement.

### **5. Payment schedule**

5.1. Payment shall be made within sixty (60) days after receipt of invoice(s) by the Purchaser receiving the Goods and invoices, unless mutually agreed upon otherwise in writing.

5.2. In case of missing documents and/or missing information and/or partly delivered orders and/or defaulting invoice(s), the Purchaser shall be entitled to suspend its payment obligation with a reasonable amount of time.

5.3. If the Vendor fails to meet its obligations and/or in case of rejection of the performance, quality and technical measures, the Purchaser may suspend its payment obligations toward the Vendor until the Vendor has fulfilled its obligations.

5.4. Payment made by Purchaser shall not constitute the waiver of any right and shall not be interpreted as recognition of the correct performance of Vendor of his obligation.



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5.5. Payment never implies that the Goods, services and/or work are to be taken with all faults (and errors of description) and is always done without prejudice to the rights ensuing from the GPTC now under consideration.

### **6. Cancellation and termination**

6.1. If the Vendor files (I) a bankruptcy petition, (II) a petition for a moratorium, or (III) proceeds to liquidation of his business whether or not voluntarily, or (IV) transfers his business or (V) control over its business to a third party, Purchaser is entitled to partly or wholly cancel the outstanding assignments without being held to any compensation and/or goodwill, all this without prejudice to the Purchaser's power to enforce his rights otherwise.

6.2. Parties understand that Force Majeure in the sense of 6:75 of the Dutch Civil Code also includes facts and/or circumstances that entail difficulties for Parties observance of the agreement, for example acts of war, pandemics, extreme climate events, disturbances of the peace, activity stoppage, accidents and/or strikes. In all these cases, Purchaser has the power to cancel the transaction if it is thought fit to do so, without being held to pay damages.

6.3. The Purchaser has the right to terminate the agreement in whole or in part in the event of a failure by the Vendor to perform its obligations under the agreement, if, after notice of default by the Purchaser, the Vendor has not corrected the failure to perform within the relevant time limit set by the Purchaser. It is not required for the failure to perform to be also attributable.

### **7. Rights of third parties**

7.1. Vendor guarantees that Purchaser does not infringe rights (copyright, patent, rights, brand rights, trade name rights, design rights etc.) claimed by third parties by acceptance, use and/or re-delivery of the Goods and/or services supplied by assignee, all this with assignee holding the assignor free of all claims in this respect.

7.2. Vendor's rights and obligation arising from the agreement cannot in any way be transferred to any third party without the written consent of Purchaser.

7.3. Vendor shall indemnify and keep Purchaser harmless in connection with any claims made by third parties concerning any damage suffered and/or damage inflicted on property, including product liability claims, and penalties for non-compliance of statutory rules, in connection with a failure by the Vendor to meet its obligations and/or a wrongful act on the part of the Vendor.



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### **8. Models, drawings, etc.**

8.1. Models, matrices, drawings and/or other aids put at Vendor's disposal by Purchaser are and remain the property of the Purchaser. Vendor is held to return such aids put at his disposal upon first request and in any case after completion of the last transaction and Vendor will use such models, matrices, drawings and/or other aids for no other purpose than delivering the contracted Goods or services to Purchaser.

8.2. The ownership of models, matrices, drawings and/or other aids, designed and manufactured for and on Purchaser's instructions and account, possibly through Vendor's intermediary, are hereby transferred in advance, and to the extent that this is not yet possible, shall be transferred by Vendor to Purchaser, all this by means of a written statement to that effect, or by means of delivery, all this with the Vendor holding Purchaser free of any rights that third parties might lay claim to in this respect.

### **9. Publicity**

9.1. Use of orders placed by Purchaser for publicity purposes, in whatever form, is not permitted.

### **10. Non-disclosure**

10.1. As used in this GPTC, "Confidential Information" means:

- a) written, documentary, recorded, machine-readable, or other information in a tangible form that is received by the Vendor from the Purchaser, in relation to the agreement and the assignment under consideration;
- b) information disclosed orally by the Purchaser in relation to the transaction, provided that such information is identified as such by the Purchaser at the time of oral disclosure;
- c) all information obtained by observation during a tour or visit at the Purchaser's facility;
- d) the existence of the agreement between the parties, any information regarding the existence and contents of the agreement; and
- e) analyses, compilations, studies, tests, results, and other materials or information prepared or developed by the Purchaser or both parties together that contain, reflect, or are otherwise generated from the information described in a), b), c), and e) above.

10.2. The term "Confidential Information" does not include, as evidenced by the Vendor by written or other tangible evidence, information which:

- a) is already known to the Vendor;
- b) is or becomes publicly known through no wrongful act of the Vendor;



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- c) is rightfully and lawfully received by the Vendor from a source other than the Purchaser or its affiliates, which source is not, to the Vendor's knowledge, bound by any obligation to keep such information confidential;
- d) is independently developed by the Vendor or its affiliates, without any use of Confidential Information obtained from the Purchaser;
- e) is approved for release by prior written authorization of the Purchaser; or
- f) is required to be disclosed by law; provided, however, that the Vendor shall (i) give the Purchaser the maximum feasible prior notice of the legal requirement for disclosure, and (ii) furnish only that limited portion of the Confidential Information that is legally required to be disclosed.

10.3. The Vendor shall exercise the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, publication or dissemination of the Confidential Information, as it uses to protect its own confidential information of a like nature or similar importance. With respect to Confidential Information, the Vendor shall not without the prior written approval of the Purchaser:

- a) publish, disseminate, or disclose the Confidential Information of the Purchaser or any knowledge derived or developed therefrom by the Vendor to any third party; or
- b) utilize any Confidential Information of the Purchaser except for the assignment under consideration, and in particular, shall not use or allow others to use any Confidential Information of the Purchaser in the manufacture, lease, sale, or offering for sale, of products or in the provision of services; or
- c) file an application or otherwise seek rights for any utility patent, design patent, utility model, copyright, trademark, or other proprietary right based upon or disclosing any Confidential Information.

10.4 All Confidential Information received by the Vendor from the Purchaser shall remain the property of the Purchaser. Upon written request by the Purchaser, the Vendor shall promptly destroy all tangible forms of Confidential Information including any and all whole or partial copies and derivations thereof in its possession or in the possession of others having rightfully received the same from the Vendor. The obligation to destroy the Confidential Information as described above is however subject to the right of both parties to retain for their corporate records a copy of their own work product as may be necessary to comply with their legal or regulatory obligations, it being provided that they agree to keep any such Confidential Information not destroyed in strict compliance with the terms of this provision.

10.5 Vendor undertakes the obligation to disclose Confidential Information to members of his staff exclusively insofar as this is required for the execution of the assignment under consideration, all this under his obligation to bind the employees concerned to secrecy.



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10.6 Infringement of these provisions renders Vendor liable in damages, also in the case that infringement of this obligation to secrecy is to be attributed to acts committed by Vendor's employees.

### **11. Liability and indemnification**

11.1. The Vendor is liable for all damage suffered by the Purchaser due to an attributable failure by the Vendor to perform its obligations and for any damage inflicted on property of the Purchaser caused by the Vendor. Except for any proof of the contrary, the accounts of the Purchaser shall serve as full evidence of the damage suffered by the Purchaser.

11.2. The Purchaser has the right to repair - or outsource the repair of - any defects caused by a failure by the Vendor to meet its obligations at the expense and risk of the Vendor if, after a notice of default by the Purchaser, the Vendor has not remedied the failure to perform within the period set by the Purchaser for that purpose.

### **12. Applicable law and competent judge**

12.1. All agreements, transactions and all legal matters arising from it are governed by the Dutch law.

12.2. Disputes between Purchaser and Vendor ensuing from agreements and transactions governed by the General Purchase Terms and conditions now under consideration shall be settled by the District Court Noord-Holland, location Haarlem. If desired, solely Purchaser has the right to settle any disputes or claims that may arise with the Arbitration Rules of the Netherlands Arbitration Institute.

12.3. The Vendor shall see to it that all Goods and services comply – and that the execution of work is in accordance- with all relevant legislation and is held to comply with the collective agreement governing the work.

12.4. The Vendor itself shall obtain the required permits and licenses for the Goods and services and for the execution of work in accordance.

### **13. Translation**

If the wording of the original Dutch text of these GPTC is contrary to the English translation of the Dutch text, the original Dutch text shall prevail. The original Dutch text of these GPTC can be found on: [www.imbema.com/voorwaarden](http://www.imbema.com/voorwaarden).