

GENERAL PURCHASING TERMS AND CONDITIONS OF PON SERVICES B.V.
DATED 1 OCTOBER 2013

Article 1. Definitions

In these general purchasing terms and conditions, the following terms are defined as follows:

Pon: Pon Services B.V. and/or affiliated companies;

Supplier: the party that delivers goods to Pon, performs services for Pon or has agreed with Pon to do so, as well as the party to whom Pon has issued other types of instructions;

Agreement: all agreements between Pon and the Supplier regarding the purchase of goods and/or services by Pon from the Supplier, *inter alia* including the framework or master agreements that Pon and the Supplier conclude, as well as all other instructions that Pon issues to the Supplier, as well as all related (legal) transactions, as well as these general purchasing terms and conditions.

Article 2. Applicability

- 2.1** These general purchasing terms and conditions apply to all requests, quotations, offers, instructions, orders, order confirmations, agreements and other legal transactions regarding the delivery of goods, rendering of services, performance of instructions and execution of other work by the Supplier to or for Pon.
- 2.2** Any departures from and/or supplements to these general purchasing terms and conditions can only be agreed upon in writing and explicitly.
- 2.3** General terms and conditions of the Supplier – under whatever name – are explicitly declared inapplicable.
- 2.4** In the event that the contents of the Agreement deviate from the contents of these general purchasing terms and conditions, the contents of the Agreement prevail. In the event that Pon and the Supplier have concluded a framework or master agreement, the following order applies in the event of conflicts: (1) contents of the framework or master agreement, (2) contents of an annex to the framework or master agreement, (3) contents of these general purchasing terms and conditions.

Article 3. Establishment of the Agreement

- 3.1** Quotations / offers / etc. from the Supplier are irrevocable and are valid for a minimum period of 90 days.
- 3.2** The Supplier ensures that the offer/quotation/etc. in any event contains the following information: the Supplier's name and address, Pon's name and address, the Pon article number (if applicable), a clear description of the goods and/or services to be supplied, the quantity of the goods and/or services to be supplied, the unit price excluding VAT, the VAT amount to be paid in euros, the name, address and VAT registration number of the tax representative if the latter pays the taxes, the Supplier's VAT registration number, the Supplier's code (if applicable), the Supplier's bank account number, delivery date and (if applicable) the packing slip number.

- 3.3** An Agreement between Pon and the Supplier is only established if (i) Pon has explicitly accepted a quotation / offer of the Supplier in writing or has sent a written confirmation in this regard and (ii) the Supplier has confirmed Pon's order in writing. In the event that the Supplier fails to confirm Pon's order in writing within 5 days after Pon issued the order, it is assumed that the Supplier has confirmed Pon's order in writing and the Agreement is nevertheless established. To the extent that the Agreement is a framework or master agreement, it is established after both Pon and the Supplier have accepted the Agreement in writing.
- 3.4** Oral orders / instructions do not bind Pon, unless Pon has confirmed the oral order / instructions in writing.
- 3.5** All costs involved in preparing a quotation / offer come at the Supplier's expense.
- 3.6** In the event that Pon has authorized certain (contact) persons within its organizations to perform the Agreement concluded with the Supplier, goods and services can and may only be ordered by these (contact) persons authorized by Pon by means of an order. In the event that a person other than an authorized person sends an order, Pon is at all times authorized to withdraw the order – at no cost.
- 3.7** The relationship between Pon and the Supplier is non-exclusive. Pon does not have any obligation to purchase goods and/or services.

Article 4. Prices

- 4.1** Unless explicitly agreed otherwise in writing, agreed prices are in euros and prices are exclusive of VAT, but include all (other) taxes, levies and costs.
- 4.2** Prices are fixed, unless the Agreement explicitly stipulates otherwise.

Article 5. Delivery of goods

- 5.1** Goods must be delivered in the manner and time stipulated in the Agreement. Delivery is made DDP in the sense of the 2010 Incoterms.
- 5.2** The Supplier is in default if an agreed term for delivery of (parts of) the goods is exceeded. The Supplier will immediately notify Pon in writing of any threat of late delivery. This notification is without prejudice to the possible consequences and liability in connection with this late delivery. If the delivery term is exceeded by 10 calendar days, in addition to compensation, the Supplier must pay an immediately payable penalty of 5% of the agreed price for the goods to be delivered, plus 1% of this agreed price for every week the late delivery continues. The statutory interest based on Section 6:119a of the Dutch Civil Code (DCC) automatically starts as of the time the penalty is forfeited; thus, Pon is not required to send the Supplier a notice of default in this regard.
- 5.3** Unless agreed otherwise in writing, the Supplier is not entitled to make partial deliveries. In the event that partial deliveries have been agreed upon, a delivery is also deemed to be a partial delivery for the application of these general purchasing terms and conditions.
- 5.4** Delivery of more or less than the quantity ordered is only agreed to if this has been explicitly agreed upon in writing.
- 5.5** Delivery also includes the delivery of all related auxiliary materials and all related documentation.

- 5.6** The delivery is completed the moment at which the goods have been accepted as delivered by or on behalf of Pon and Pon has signed for the delivery as evidence of its approval. The latter signing is without prejudice to the fact that the delivered goods can be rejected by virtue of Article 7 of these general purchasing terms and conditions. In addition, the Supplier cannot derive any right from the signing referred to in the first sentence of this article paragraph; consequently, the signing does not stand in the way (for example) of Pon exercising its rights (*inter alia*) on account of a culpable failure on the part of the Supplier.
- 5.7** The Supplier is not authorized to suspend its delivery obligation in the event that Pon fails to fulfil (any of) its obligations.
- 5.8** The Supplier hereby waives all rights and powers it is entitled to by virtue of the right of retention or the right to claim back unpaid goods.

Article 6. Rendering services

- 6.1** Services are rendered in the manner and the time specified in the Agreement in conformance with the safety regulations in force.
- 6.2** The Supplier is in default if it fails to meet any agreed term for rendering services.
- 6.3** The rendering of services is completed the moment at which Pon has confirmed in writing that the services rendered have been performed or has approved the services rendered. The Supplier cannot derive any right from this confirmation or approval; consequently, the confirmation or approval does not stand in the way (for example) of Pon exercising its rights (*inter alia*) on account of a culpable failure on the part of the Supplier.
- 6.4** The Supplier can only delegate the performance of services to third parties with Pon's prior written consent.
- 6.5** The Supplier is responsible for and takes care of the auxiliary materials, personnel and / or third parties employed in the services to be performed.
- 6.6** The Supplier is not authorized to suspend the performance of the services in the event that Pon fails to fulfil (any of) its obligations.

Article 7. Inspection / no obligation to complain

- 7.1** Pon is at all times entitled to subject the goods to be delivered (or delivered) to an inspection (or to have this done) or to examine whether any services rendered have been performed in conformance with the Agreement. The Supplier must render its full assistance in this.
- 7.2** In the event that goods are rejected, Pon will notify the Supplier of this. Pon will store the rejected goods at the Supplier's expense and risk (or have this done). In the event that the Supplier fails to take back those goods within a term of 14 days after Pon has informed the Supplier that the delivered goods have been rejected, Pon can return these goods to the Supplier at the Supplier's expense and risk without the Supplier's consent, or Pon can store, sell or destroy these goods at the Supplier's expense and risk.
- 7.3** The Supplier cannot derive any right from the results of an inspection or examination referred to in Article 7.1 or from the omission of such inspection or examination.

- 7.4** Pon will never be bound to any term stipulated by the Supplier within which Pon must indicate that the delivered goods are rejected or at least the term within which Pon must lodge a complaint.

Article 8. Title and risk

- 8.1** The title to and risk of the goods passes from the Supplier to Pon at the time of delivery, unless (i) the Parties have agreed otherwise or (ii) Pon rejects the goods during or after delivery (by virtue of Article 7).
- 8.2** The Supplier warrants that unencumbered ownership of the goods is acquired.
- 8.3** The Supplier hereby waives all rights and powers it is entitled to by virtue of the right of retention or the right to claim back unpaid goods.

Article 9. Packaging and dispatch

- 9.1** The Supplier will package the goods at its own expense subject to the requirements stipulated in the Agreement and by law in a manner that is appropriate for the goods. The Supplier is liable for the damage caused by insufficient or inadequate packaging.
- 9.2** Each consignment must be accompanied by a packing list.
- 9.3** The Supplier must take back any packaging material at Pon's initial request to this effect.
- 9.4** Any (loaned) packaging is returned at the Supplier's expense and risk to a destination to be specified by the Supplier.

Article 10. Payments

- 10.1** Payment will be made within a payment term of 60 days, provided that the delivered goods or the performed services have been approved and after receipt of all related documentation, including the correctly addressed and complete invoice.
- 10.2** Invoices must contain the following information: the Supplier's name and address, Pon's name and address, Pon's purchase order/article number (if applicable), a clear description of the goods and/or services to be delivered, the quantity of goods and/or services to be delivered, the unit price excluding VAT, the VAT amount to be paid in euros, the name, address and VAT registration number of the tax representative if the latter pays the taxes, the Supplier's VAT registration number, the Supplier's code (if applicable), the Supplier's bank account number, the delivery date and (if applicable) the packing slip number.
- 10.3** Payment by Pon does not constitute any waiver of right whatsoever.
- 10.4** Pon is at all times authorized to offset claims of the Supplier against Pon and/or affiliated companies against claims that Pon and/or affiliated companies have against the Supplier on any account whatsoever.

Article 11. Prepayment

- 11.1** In the event that prepayment has been agreed upon, Pon is entitled to demand at all times that the Supplier furnishes security for the prepaid amount to Pon's satisfaction, for example in the form of a bank guarantee.
- 11.2** In the event of prepayment for the production of a good or work, the title to the good or work passes to Pon at the time the prepayment is made.
- 11.3** In the event of prepayment, the Supplier will report the performance of the Agreement to which the prepayment pertains to Pon on a weekly basis at a minimum.

Article 12. Additional work

- 12.1** The Supplier ensures that the agreed budget for performing the Agreement is not exceeded. If the Supplier observes that the actual compensation will (possibly) exceed the total amount budgeted, the Supplier will immediately notify Pon of this. Pon is only required to pay compensation for the time worked in excess of the budgeted time if Pon has granted its prior written approval for this.

Article 13. Warranty

- 13.1** The Supplier warrants that the goods to be delivered or the services to be rendered conform to the Agreement. This warranty at a minimum stipulates that:
- the goods have the assured characteristics;
 - the goods are new and free of defects and third party rights, including but not limited to encumbrances;
 - the goods or the services are fit for the purpose for which the instructions/order were/was issued or the Agreement entered into;
 - the services will be performed in a skilful/expert manner using the latest state of the art and without any interruptions;
 - the goods and/or services satisfy the applicable rules of self-regulation stipulated by or by virtue of the law and/or the requirements stipulated by Pon, *inter alia* in the area of quality, health, safety, the environment and advertising;
 - the goods display all designations required by law, including but not limited to an indication of the manufacturer or the party that puts the goods on the market;
 - the goods are provided with and accompanied by all the information and instructions required for a correct and safe use; and
 - the goods are provided with and accompanied by all the documentation that Pon has requested, irrespective of whether Pon requested this documentation before, during or after concluding the Agreement.
- 13.2** The Supplier also warrants *inter alia* that (i) it will not act in breach of the legislation applicable to the Supplier in the area of child labour, (ii) it will not discriminate based on race, gender, religion, etc., and that any form of discrimination will be prohibited, (iii) no forced, hidden or dangerous work or community service will be involved, except for the work of prisoners who can freely choose their work location and receive a salary that is in conformance with market terms, (iv) the employees are offered sound and secure working and living conditions and (v) the right of freedom of association with others will be respected.

- 13.3** In the event that – regardless of the results of previous inspections – it is demonstrated that delivered goods do not satisfy the provisions of Article 13.1, at Pon’s initial request to this effect, the Supplier will repair or replace the goods or supplement any missing goods at its own expense and at Pon’s discretion, unless Pon prefers to terminate the Agreement in accordance with the provisions of Article 19 of these general purchasing terms and conditions, all this without prejudice to Pon’s other rights on account of failures (including the right to compensation). All related costs (including the costs of repair and disassembly) come at the Supplier’s expense.
- 13.4** In urgent cases and in cases in which it must be reasonably assumed following consultations with the Supplier that the latter will fail to fulfil its obligations, Pon is entitled to repair or replace the article itself at the Supplier’s expense or to have this done by third parties. This does not discharge the Supplier from its obligations under the Agreement.
- 13.5** Unless agreed otherwise in writing, a warranty term of three years after delivery of the goods or performance of the services applies.
- 13.6** The Supplier warrants that after delivery, it will be able to supply parts of the delivered goods and/or services to Pon for a minimum period of five years.
- 13.7** An agreed warranty term recommences after the repairs, replacement or supplements to which the warranty terms apply have been accepted.

Article 14. Unfair advantage

- 14.1** The Supplier declares, ensures and warrants that:
- in fulfilling the Agreement, it will refrain from improperly or inappropriately encouraging or ensuring any unfair advantage for Pon or Pon employees (or having this done), *inter alia* by – directly or indirectly – offering, promising, paying, giving or accepting (or having any of this done) any offer, promise or gift of an amount or any other advantage that has monetary value;
 - it did not make any of the offers, promises, payments, gifts or assurances referred to above or had this done prior to concluding the Agreement.
- 14.2** The Supplier must impose the obligations referred to in Article 14.1 upon its (executive or lower-level) employees or third parties that the Supplier called in for the performance of the Agreement. The Supplier warrants that these employees / third parties will not act in breach of the relevant obligations.

Article 15. Confidentiality

- 15.1** The Supplier must maintain absolute confidentiality in respect of all information originating from Pon (including ideas, know-how, trade secrets, data, procedures, substances, samples and the like) of which the Supplier has become aware in the scope of (fulfilling) the Agreement, which Pon has designated as confidential information or that the Supplier can reasonably suspect is confidential (“**Confidential Information**”). The Supplier limits access to Confidential Information to the persons who need this information for (fulfilling) the Agreement. Unless Pon’s prior written consent has been obtained, the Supplier will not disclose any Confidential Information or any part thereof to any person, firm, company or other entity; the Supplier will not use the Confidential Information or any part thereof for any purpose other than for (fulfilling) the Agreement.

- 15.2** The duty of confidentiality referred to in Article 15.1 does not apply to information for which the Supplier can provide written evidence demonstrating that such information:
- was fully in the Supplier's possession prior to the disclosure by Pon without the Supplier being bound by a duty of confidentiality in respect of Pon or a third party; or
 - at the time of disclosure by Pon was already generally known or available or subsequently became generally known or available other than as the result of an act or omission on the part of the Supplier; or
 - was acquired by the Supplier from a third party that was not bound by a duty of confidentiality regarding that information; or
 - was independently developed by the Supplier without using any of the information disclosed by Pon; or
 - must be disclosed by the Supplier by virtue of the law, any regulation or rule from an institution recognized by the authorities, or a binding decision of a court or other government body not open to appeal. In that case, the Supplier will notify Pon of this in a timely fashion, so that the scope of the disclosure by the Supplier can be limited to what is strictly necessary in consultation with Pon.
- 15.3** The Supplier is required to impose the same obligation referred to in Article 15.1 upon its employees or third parties called in by the Supplier in fulfilling the Agreement. The Supplier warrants that these employees / third parties will not act in breach of the duty of confidentiality.

Article 16. Intellectual property

- 16.1** To the extent that any intellectual property rights apply to goods delivered by the Supplier and/or services rendered by the Supplier, including the related documents, which the Supplier can prove already existed prior to the Agreement coming into effect and which were held by the Supplier or were developed independent of (fulfilling) the Agreement, those intellectual property rights are held by the Supplier. The Supplier grants Pon a non-exclusive, perpetual, irrevocable, worldwide and transferable right of use regarding such intellectual property rights for any purpose that is related to Pon's business or activities. This right of use granted to Pon also comprises the right to grant such a right of use to its (possible) buyers or to other third parties with whom Pon maintains a relationship in connection with the performance of its business.
- 16.2** The Supplier warrants that the use (including the re-sale) of goods that the Supplier delivered or services that the Supplier rendered will not infringe any intellectual property rights or other (property) rights of third parties.
- 16.3** The Supplier indemnifies Pon against any third-party claims that result from any infringement of the rights mentioned in Article 16.2 of these general purchasing terms and conditions; the Supplier will compensate Pon for all damage that results from such infringement.
- 16.4** All drawings, materials and other auxiliary materials that Pon provided or which the Supplier produced or purchased at Pon's expense are the property of Pon and can be immediately claimed by Pon at all times. The Supplier will manage all these auxiliary materials and keep them in good condition at its own expense and risk. The Supplier will not use these auxiliary materials for or allow them to be used by third parties, unless Pon has authorized the Supplier in writing for such purpose. Article 15 applies *mutatis mutandis* to all the auxiliary materials referred to in this Article 16.4.

- 16.5** All intellectual property rights regarding all materials, methods, data, drawings, information, reports, know-how, inventions, trade secrets, improvements, techniques and other results, as well as related documentation, which arise in connection with or as the result of any relationship (including the Agreement) between Pon and the Supplier will be exclusively held by Pon from the time such rights are established. To the extent required, the Supplier hereby unconditionally transfers those intellectual property rights to Pon for no consideration; Pon accepts this transfer. In the event that a deed or other formal transaction is required for the transfer or to enter the transfer in the relevant registers, the Supplier hereby assures that it will render its unconditional cooperation for this, or hereby irrevocably authorizes Pon to effectuate that transfer or the entry of such transfer (or other formal transaction), should the occasion arise.
- 16.6** In the event that the Supplier collects and records information in connection with the delivery of goods and/or services to and/or the performance of work for Pon (hereinafter: the "**Data**"), these Data are designated as Confidential Information referred to in Article 15.1; the Supplier is required to maintain absolute confidentiality regarding such Data. At Pon's initial request to this effect, the Data will be provided to Pon; without Pon's prior consent, the Data will not be shared with any party other than Pon. The Supplier is not permitted to change, destroy or use the Data other than in conformance with this provision. To the extent that the Data are subject to any intellectual property rights, including but not limited to copyrights or database rights, the Supplier will transfer these rights to Pon at Pon's initial request to this effect.

Article 17. Liability

- 17.1** Each and every failure in the fulfilment of the Supplier's obligations entitles Pon to stipulate that the Supplier wholly or partially nullifies the failure and / or the consequences of the failure at the Supplier's expense and risk.
- 17.2** The Supplier is liable for all damage that Pon suffers as the result of (in the sense of a *condicio sine qua non*) a failure on the part of the Supplier to fulfil its obligations and/or as the result of any act or omission on the part of the Supplier or its employees or third parties called in by the Supplier.
- 17.3** Without prejudice to the provision of Article 16.3, the Supplier indemnifies Pon against all third-party claims in connection with the Agreement concluded between Pon and the Supplier.
- 17.4** The Supplier will take out adequate insurance or be adequately insured for the liability referred to in this Article 17; if requested, the Supplier will make the insurance policy available for inspection to Pon. This insurance obligation also covers auxiliary materials that are involved in the performance of the Agreement in any way whatsoever.
- 17.5** Pon is not liable for any damage suffered on the part of the Supplier, unless the damage is the result of intent or wilful recklessness exclusively on the part of Pon's executive employees.
- 17.6** The complaint obligation by virtue of Section 6:89 DCC and Section 7:23 DCC is excluded

Article 18. Force majeure

- 18.1** Force majeure means circumstances beyond a party's control in the sense of Section 6:75 DCC. In the event that a party falls victim to force majeure, the fulfilment of the Agreement is fully or partially suspended for the duration of the force majeure period, without either party being required

to compensate the other party on this account. In the event that the force majeure situation lasts longer than thirty (30) days, the other party is entitled to dissolve the Agreement with immediate effect and without judicial intervention by means of a registered letter, without this giving rise to any right to compensation.

18.2 Force majeure on the part of the Supplier in any event does not include: shortage of personnel, strikes, default by third parties called in by the Supplier, breakdown of auxiliary materials, liquidity or solvency problems at the Supplier and government measures against the Supplier. The preceding list is not exhaustive.

Article 19. Termination

19.1 Pon is at all times authorized to terminate the Agreement without any valid reason and without incurring any compensation obligation in this regard, subject to a notice period of 3 calendar months.

19.2 Pon is entitled to suspend, withdraw, dissolve or terminate any Agreement with the Supplier with immediate effect, without judicial intervention, without being required to pay the Supplier any damages:

- In the event that the Supplier fails to fulfil one or more obligations and – unless fulfilment has become permanently or temporarily impossible – fails to fulfil these obligations within 30 days after the date of a written notice of default issued by Pon;
- In the event of the Supplier's (application for) suspension of payments or winding-up (petition);
- In the event that the Supplier's business activities are terminated;
- In the event that a person or entity other than the Supplier's current parent company (i) has become the holder of more than 50% of the shares in the Supplier's share capital or (ii) can exercise more than 50% of the voting rights in the Supplier's general meeting, whether or not by virtue of an agreement with other parties entitled to vote;
- In the event that the permits required for the Supplier's business activities are revoked or the terms and conditions of such permits are changed, as a result of which the Supplier can no longer continue its business activities in the manner agreed upon;
- In the event that the Supplier's operating assets required for the performance of its business activities and/or fulfilling an Agreement are attached; or
- In the event that the Supplier transfers its rights and obligations under an Agreement to a third party without Pon's prior written consent.

19.3 All claims that Pon has or may acquire against the Supplier in the events mentioned in Article 19 above will be immediately due and payable in full.

Article 20. Application of recipients' and vicarious tax liability legislation

20.1 The Supplier must have a licence to establish a business to the extent that such a licence is a legal obligation of the Supplier. At Pon's initial request to this effect, the Supplier will send Pon a copy of this document.

20.2 At Pon's initial request to this effect, the Supplier will provide Pon (i) a list specifying the name, first name(s), address, place of residence, (ii) the employment terms and conditions, as well as (iii) the salary slips and timesheets of all persons present at the work by or on account of the Supplier.

- 20.3** The Supplier will strictly observe its obligations in respect of and in connection with the persons called in by the Supplier to fulfil the Agreement. The Supplier indemnifies Pon against any third-party claims in connection with any failure to fulfil obligations in respect of those third parties or the Tax Authorities on the part of the Supplier or a third party called in by the Supplier for the performance of the Agreement (such as employees, non-subordinates, sub-contractors, etc.).
- 20.4** Each time at Pon's initial request to this effect, the Supplier will send Pon a copy of the statements regarding its payment record with the Tax Authorities.
- 20.5** Pon is always entitled to pay the Supplier the amount Pon owes the Supplier under the Agreement that corresponds to the national insurance contributions, value added tax and wage tax payable by the Supplier in connection with the performance of the Agreement for which Pon could be liable by virtue of the *Invoeringswet 1990* (Collection of State Taxes Act 1990) and related Implementing Regulations for the Liability of Recipients, Subcontractors and Clients 2004 by payment into the Supplier's blocked account referred to in the Collection of State Taxes Act 1990 and related Implementing Regulations for the Liability of Recipients, Subcontractors and Clients 2004. At Pon's initial request to this effect, the Supplier must open and keep such a blocked account.
- 20.6** Without prejudice to the provisions of the previous paragraph, Pon is at all times authorized to deduct the previously mentioned amounts in national insurance contributions, value added tax and wage tax from the contract price and to pay these amounts directly to the Tax Authorities on behalf of the Supplier.
- 20.7** In the events referred to in Articles 20.5 and 20.6, the amounts paid by Pon will be considered to apply to the existing obligation.

Article 21. Transfer

- 21.1** The Supplier will not transfer all or part of the rights and obligations that arise for the Supplier from the Agreement to third parties without Pon's prior written consent.
- 21.2** The Supplier will not contract out the fulfilment of all or part of its obligations under the Agreement to third parties without Pon's prior written consent.

Article 22. Invalidity of one or more provisions

- 22.1** The invalidity of one of the provisions of the Agreement does not affect the validity of the other provisions of the Agreement.
- 22.2** If and to the extent that a provision of the Agreement is invalid or – under the given circumstances – unreasonable based on standards of reasonableness and fairness, a provision will apply between the parties whose objective corresponds to the original provision to the extent possible and is acceptable, taking all circumstances into account.

Article 23. Applicable law and competent court

- 23.1** The legal relationship between Pon and the Supplier is governed exclusively by Dutch law; applicability of the Vienna Sales Convention is excluded.

23.2 All disputes between Pon and the Supplier will be settled in the first instance by the District Court of Midden-Nederland, Utrecht location.

Article 24. Final provision

24.1 The Dutch text of these general purchasing terms and conditions is the only authentic text. In the event of differences between the Dutch text and a translation into a foreign language, the Dutch text prevails.

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