

General Purchase Conditions



of Van Gansewinkel Groep bv and every affiliated entity

1. Definitions

In these General Purchase Conditions (hereinafter: 'these Purchase Conditions'), the following terms and expressions will have the following meanings:

Client: van Gansewinkel Groep b.v., as well as every entity that is a member of this group, as referred to in Section 24(b) of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek), being the users of these Purchase Conditions;

Contracted Party: the natural person or legal entity to whom or which the Client assigns the delivery of goods, the carrying out of specific work and/or the provision of services;

Parties: the Client and the Contracted Party;

Agreement: every legal relationship to which these Purchase Conditions apply;

Assignment: the agreements between the parties, laid down in writing;

Written/in writing: by letter but also by fax and email;

Performance: the delivery of goods, the carrying out of specific work and/or the provision of services, which includes making workers available.

2. Applicability

These Purchase Conditions are applicable, with the exclusion of the conditions of other parties, to the formation, contents and execution of the Agreement, as well as to all other legal acts and legal relationships between the Client and the other party (the Contracted Party), unless explicitly agreed otherwise.

The Agreement is a result agreement, with the Contracted Party guaranteeing the result in full.

3. Assignment

The offers of the Contracted Party will bind the Contracted Party irrevocably. An agreement will only be concluded following written confirmation by the Client.

Additional work can only be charged if this was agreed in advance, in writing.

At the Client's mere request, the Contracted Party will open a G-account into which the Client is authorized to deposit 50% of the assignment amount.

4. Rates

The prices and rates agreed on by the Parties are fixed,

unless the Agreement specifies the circumstances that result in a price adjustment and also stipulates the manner in which this adjustment is made.

Agreed prices and rates are expressed in euro, exclusive of Dutch VAT, unless agreed otherwise, and will include all of the costs in connection with the Performance of the Contracted Party, including, but not limited to, labour costs, transport costs, accommodation expenses, overnight expenses, shipping costs, clearance charges, insurance costs and packaging costs (with the exception of packaging on loan), etc.

The Contracted Party will also specify which VAT rate applies.

5. Shipment

With due observance of the provisions set out below, completion, hand over and/or delivery of the Performance will be effected at the agreed location and at the agreed time and also in accordance with the delivery condition Delivered Duty Paid (carriage paid, including duties). All delivery deadlines must be considered to be final. In the event that any period is exceeded, the Contracted Party will be in default by operation of law.

In the event that any period is in danger of being exceeded, the Contracted Party must report this to the Client immediately in writing, stating the reasons. The Contracted Party must at the same time submit a proposal for the manner in which the Contracted Party will, as much as possible, limit the time by which the period is exceeded.

6. Performance

The delivered Performance must be of good quality and meet the usual requirements of reliability, efficiency and finish, as well as any requirements agreed on at a later date. The Contracted Party is aware of the purpose and use for which the Performance is intended and guarantees that the Performance is pre-eminently suited for that purpose and use.

The items to be transported will be at the risk and expense of the Contracted Party. The Contracted Party will be responsible for adequate insurance, loading, stowage, transport and unloading.

7. Transfer of rights

The rights and obligations arising from the Agreement are not transferable.

Ownership of the Performance will transfer from the Contracted Party to the Client after completion, hand over or delivery and, if applicable, assembly and/or installation in accordance with the Agreement.

The risk of the Performance will transfer to the Client at the time of completion, hand over or delivery and approval of the Performance.

8. Payment

Payment of the invoice, including Dutch VAT, will be effected 90 (ninety) calendar days after completion, hand over or delivery of the Performance or, if that date is later, 90 (ninety) calendar days after receipt by the Client of the invoice, if and in so far as the Client has approved the invoice and the Performance, including all the relevant documentation and any installation and/or assembly and/or commissioning.

9. Testing

In the event that the Performance, irrespective of the results of any Test, proves not to be in compliance with the provisions of paragraph 5, the Contracted Party will, at the Client's discretion and on the Client's first written demand, either repair or replace the Performance, at the expense of the Contracted Party, unless the Client prefers to terminate the Agreement on account of an attributable breach on the part of the Contracted Party.

10. Guarantees

The guarantee period applicable to the Performance, including any installation and/or assembly involved, will be at least two (2) years, counting from the date of actual delivery, completion or commissioning. The expiry of the guarantee period will not affect the rights which the Client may derive from the law and/or the Agreement.

The Contracted Party will be fully responsible for any hidden defects.

11. Spare parts

The Contracted Party will, in accordance with the general statutory regulations, stock spare parts for a period which, in view of the nature of the delivered Performance, can be considered reasonable, even if the Contracted Party ceases to produce or import these spare parts.

12. Liability

The Contracted Party will be liable for all damage and/or loss, including the costs of legal assistance, which has been or will be sustained by the Client, the Client's personnel or any third parties as a result of or in connection with the execution of the Agreement, including, in general, safety deficiencies within the meaning of the product liability and employment conditions regulations and/or, in particular, a defect in the Performance and/or auxiliary material(s) and/or any installation and/or assembly involved, acts or omissions on the part of the Contracted Party, the employees of the Contracted Party or any third parties engaged by the Contracted Party.

The Client will solely be liable for any damage and/or loss which the Contracted Party can prove to have been caused by an intentional act or gross negligence on the part of the Client.

The Contracted Party will indemnify the Client, the Client's personnel and any third parties engaged by the Contracted Party against any claims from third parties, of whatever nature and for whatever reason, in connection with the Performance.

13. Termination

Without prejudice to all other rights to which the Client is entitled and amounts which it is owed, including the right to full compensation, the Client may terminate all or part of the Agreement unilaterally by means of a written notification addressed to the Contracted Party in the event that the Contracted Party fails imputably in the fulfilment of any obligation arising from the Agreement, the fulfilment by the Contracted Party of any obligation arising from the Agreement becomes permanently or temporarily impossible, the Contracted Party files for bankruptcy or files a winding-up petition, is declared bankrupt or insolvent or is granted a moratorium, whether or not provisional, a decision is made and/or taken to close down, wind up, take over or cause a similar situation for the business of the Contracted Party, or any (personal) gain has been or is offered or provided by the Contracted Party or any employee or representative of the Contracted Party to a person who forms part of the Client's company or to any of the Client's employees or representatives.

14. Default

In each of the cases referred to in Article 13, the Contracted Party will be in default by operation of law, any and all amounts which the Client is or will be owed by the Contracted Party will become immediately due and payable in full, the Client may suspend every payment obligation in respect of the Contracted Party and the



Client may assign a third party to execute all or part of the Agreement, at the expense of the Contracted Party, without the Client being obliged to pay any compensation whatsoever.

15. Applicable law

All applicable laws and regulations apply to the delivery. The Contracted Party will observe the safety and environmental regulations as well as the company rules applied by the Client.

The Agreement, as well as any and all legal relationships arising from it, is exclusively governed by the laws of the Netherlands. Unless explicitly provided otherwise herein, foreign laws and the Vienna Sales Convention 1980 (CISG) do not apply to the Agreement.

Any disputes between the Parties in connection with or arising from the Agreement or ensuing legal relationships will in the first instance be settled by the competent court in the district of Rotterdam.

Special appendix to the general purchase conditions:

16. Execution of work

In the event that the Performance consists of the execution of work, the completion of the work will be effected by means of a written protocol, signed by both parties.

The final completion of the work after expiry of the guarantee period will be regarded as the definitive completion. Any minor, non-essential issues will be dealt with as soon as possible, as described in the protocol. Signing the protocol will constitute approval of the services performed.

After expiry of the guarantee period, the Contracted Party will, at the Client's request, also perform work, in return for reasonable payment, in connection with maintenance, replacement of parts and delivery of replacement parts.

In the event that the realization of the work will be in stages, the Parties will make specific arrangements regarding the conditions of each stage. Every agreed deadline will be considered to be final.

Article 8 will apply fully to the instalments.

Any lack of clarity regarding the technical descriptions will be interpreted in the Client's favour.

The materials of the work to be created will become the property of the Client at the time of their delivery at the Client's premises.

17. Performance of services

In the event that the Performance consists of the performance of services, the assessment of whether the service has been performed properly will depend on the type of service to be performed.

In the event that the service consists of maintenance work or similar activities, the work will be assessed in writing after it has been executed, on the basis of an acceptance protocol. Any minor, non-essential issues will be dealt with as soon as possible, as described in the protocol. Signing the protocol will constitute approval of the services performed.

In the event that the Performance consists of the performance of services under the Client's direction, the Contracted Party will be responsible for providing signed timesheets to account for the hours worked. The project manager or the person specifically appointed by him as his representative will sign on behalf of the Client.

In the event that the Performance consists of making workers available, on a secondment basis or otherwise, assessment of the Performance will not take place until after the workers made available have been assessed. Of importance in this respect is the actual match with the profile provided by the Client, demonstrated in practice.

Assignments relating to the provision of workers will never be exclusive. The Client will always have the right to engage another contracted party in the event that the Contracted Party fails to fulfil the Assignment within a reasonable period.

In the event that the Performance consists of creating new information, for instance through engineering and/or creating drawings, designs, etc., the Client will be entitled to the intellectual property rights.

18. Delivery

In the event that the Performance consists of the delivery of goods, the mere delivery will not imply approval of the delivery, even if receipt has been signed for without any conditions.

Only after the functionality of the goods has been tested may delivery be deemed to have been accepted.

Any previous payments, whether agreed or otherwise, will not affect the fact that acceptance of the delivery is required. The guarantee period will commence following the acceptance of the delivery. This may be entirely independent of any payment effected for the delivery.

19. Mixed contracts

In the event that the Performance consists of a part that relates to the performance of services, the conditions for the performance of services, as described in these General Purchase Conditions, will apply to that part.

The same applies to the other parts that the Performance may consist of, as described above.