

GENERAL ORDER AND PURCHASING CONDITIONS

1. Definitions

1.1

In these general terms and conditions ("Terms and Conditions") the following terms have the following meanings:

- Gispen: Gispen Nederland B.V., registered in Culemborg, the Netherlands;
- Contractor: Any natural person or legal entity from which Gispen orders products and/or services or with which it is holding discussions or negotiations with a view to concluding an agreement.
- Agreement: any agreements concluded between Gispen and Contractor, any amendment or addition to such an agreement and all (legal) acts performed to prepare for and/or execute such an agreement;
- Order: any orders placed by Gispen with Contractor for the delivery of Products and/or the provision of Services, in whatsoever form;
- Products: any goods delivered or to be delivered or supplied to Gispen in execution of an Order, regardless as to whether the Order comprises solely the delivery or supply of these goods or whether it (also) comprises the provision of Services;
- Services: all work (in whatsoever form and by whatsoever name, e.g. provision of services, contracts for work, lending labour, etc.) performed by Contractor for or on behalf of Gispen, whether or not related to the delivery or supply of Products;
- Specification: the description of Products or Services ordered by Gispen, which is recorded in or to which reference is made in the Order or the Agreement;
- Defect: any deviation in the Products or Services from the Specification and any other malfunctions in the functioning of the Products or any other Service performed incorrectly;
- Test setup: An agreement between Gispen and Contractor under which the Contractor puts goods at the disposal of Gispen free of charge for a period of time agreed in writing, during which time the ownership and risk is entirely for the account of the Contractor and the Contractor collects the goods again free of charge at the end of the agreed period of time, unless agreed otherwise at a later date.
- Goods: All tangible objects that are susceptible to control.

2. Applicability

2.1

Except when, partly in view of the nature of the performance agreed or to be agreed, other General Terms and Conditions of Gispen have been declared to apply these Terms and Conditions form part of all Agreements and apply to all (other) acts and legal acts between Gispen and Contractor even if these (legal) acts do not culminate in or are not related to an Agreement.

2.2

The applicability of any general delivery terms and conditions of Contractor is expressly rejected by Gispen.

3. Order and acceptance

3.1

All Orders placed by Gispen are without engagement. Gispen has the right, provided it does so within 2 working

days after Contractor's acceptance of Gispen's Order, to dissolve the Agreement by way of a written statement to this end sent to Contractor without being liable to pay any compensation.

3.2

If Gispen sends Contractor an order form, this form should be signed for acceptance and returned by it within 7 working days of the date thereon. If Gispen has not received a correctly signed form within 10 working days, it is entitled to assume that the agreement has not been validly concluded.

3.3

Offers and quotations made by Contractor are fixed and binding and can no longer be changed either before or after the Order is placed

4. Amendments and supplements

4.1

Amendments and supplements to any provision of the Agreement and/or the Terms and Conditions can only be agreed in writing.

4.2

When an amendment and/or supplement as referred to in paragraph 1 is agreed, this amendment or supplement only applies in respect of the relevant Agreement.

5. Prices, VAT, payment and set-off

5.1

The prices stated in the Order are fixed and expressed in Euros and do not include (turnover) tax unless expressly agreed otherwise in the Order.

5.2

The product prices include standard packaging and delivery duty paid free of import duties unless expressly agreed otherwise in the Order or in the Agreement. The prices of the Products and Services also include all preparatory and other work that is needed to meet the requirements and descriptions set by Gispen and the Specifications.

5.3

Contractor indemnifies Gispen in respect of all costs and damage incurred by Gispen due to the fact:

- that Contractor is not correctly registered for the turnover tax in a relevant EU member state; and/or
- that Contractor provides incorrect or late information to Gispen and/or to turnover tax authorities in the relevant EU member state.

5.4

No amounts are payable by Gispen until the Order has been fully and correctly executed and accepted in accordance with the provisions in Article 10. Gispen will then pay the invoice within 60 days of receiving it.

5.5

The invoice shall be sent to:

Gispen Nederland

Attn. Finance Department

PO Box 30

4100 AA Culemborg

and shall be fully itemised according to quantity and type and at least include

the following details:

Price per unit;

Total price;

Quantity (incl. weight) and unit name;

Description;

Gispen article code number and Gispen purchase order number with position number.

5.6

Contractor will not transfer its claims against Gispen to a third party, unless Gispen has given its consent to such beforehand.

5.7

Gispen is entitled to set-off any claim that Contractor has against it against any claim that Gispen might have against Contractor (regardless of the grounds for this claim and whether or not the claim is due and payable). If the claims set-off by Gispen are not yet due and payable then a discount will apply equal to the then current promissory note discount of the Nederlandsche Bank (Dutch Central Bank) plus 1% on an annual basis in respect of the period starting from the date of the set-off statement until the expiry date.

5.8

Without prejudice to its other rights, Gispen is entitled to charge Contractor the judicial and extra judicial expenses, including legal assistance fees, validly incurred or to be incurred by Gispen to collect any amount owing or to enforce Contractor's compliance with any of its obligations.

6. Timely execution/delivery

6.1

The agreed term or any additional term established with due observance of Article 7.6, within which the Order has to be executed is of paramount importance to Gispen. Contractor is in default due to the mere fact of exceeding the terms agreed with Gispen within which the performances have to be delivered. Any penalty agreed in respect of this will not affect any obligation on the part of Contractor to pay full compensation.

6.2

The term starts on the date on which Contractor accepts the Order.

7. Execution in accordance with Specifications; additional and less work

7.1

Contractor is required to execute the Order strictly in line with the Specifications and otherwise with due observance of the requirements of professional practice.

7.2

Gispen has the right to make changes to the Specifications before or during the execution of the Order or to request additional delivery of Products and/or additional Services after the Order has been executed.

7.3

Insofar as Contractor is technically able to do so, Contractor declares beforehand its willingness to execute the amended Order as referred to in paragraph 2 and/or to deliver the Products and/or Services subject to the same conditions.

7.4

There is less work that is eligible for set-off if on grounds of the amendments the performance to be delivered by Contractor demonstrably decreases.

7.5

Additional work will arise in respect of which Contractor will receive payment if as a result of the amendments referred to in paragraph 2 the performance the Contractor has to deliver pursuant to the Agreement demonstrably increases or expands. Additional work does not include extra work that Contractor could and ought to have anticipated when it accepted the Order. If Contractor is of the opinion that it is owed payment for additional work the Contractor shall not start to perform the work until it has made a quotation relating to the amount of additional work it expects to perform as a result of this amendment and the costs of this that is payable by Gispen. Contractor shall not start to perform additional work until it has received a written and express order from Gispen.

7.6

The date for the delivery of the Product or the performance of the Services will be established again in reasonable consultation in the event of additional or less work.

7.7

If agreement is not reached on the price and/or terms for the additional and/or less work this will be deemed to be a dispute as referred to in Article 19. Pending the decision on such a dispute, if Gispen so wishes, Contractor is provisionally required to execute the Order in accordance with the Specifications amended by Gispen in which case Contractor may request a bank guarantee within two weeks from Gispen for the difference between the price to which it believes it is entitled and the amount that Gispen is willing to pay.

8. Quality guarantee

8.1

Contractor guarantees the soundness of the Products delivered and/or Services provided by it. This guarantee includes at least that:

- a. the Products and/or Services are suitable for the purpose for which they are ordered insofar as Contractor was aware of that purpose or could have been aware of that purpose and/or ought to have been aware of that purpose;
- b. the Products are new, of good quality and have no design, processing, manufacturing, construction or measurements errors and there are no Defects in the used materials and that these are

- c. as safe (as referred to in Article 6:186 of the Dutch Civil Code) as one can expect them to be;
- d. as regards quantity, description, quality and performance the Products are fully in accordance with the Specifications and with any samples, models and drawings;
- e. all applicable national and international regulations relating to the Products, the packaging thereof and/or the Services have been strictly observed;
- f. the Products and/or Services otherwise meet the requirements that can be reasonably imposed on them.

8.2

Ordered Products will always be considered unsound within the meaning of the provisions in the previous paragraph if defects arise in them within one year after delivery, unless this is the result of normal wear and tear or is attributed to the gross negligence of Gispen.

8.3

The above guarantee means, without this affecting Gispen's right to the compensation of costs, damage and interest, that the Defects that arise within one year after delivery will be fully repaired immediately and free of charge at Gispen's first request by Contractor, if necessary by way of replacing the Products or parts thereof or by performing the relevant Service again. Unless this is impossible repairs will always be performed on site.

8.4

After the Defects have been repaired a new guarantee term will start as described in paragraph 2 and Contractor will guarantee the soundness of the replaced or repaired Products as described in paragraph 1.

8.5

If this is required for the safety of persons and/or the progress of the work Gispen is entitled to make temporary repairs for the account of Contractor or to issue instructions for such repairs to be made. Contractor is entitled not to pay Gispen's costs if Contractor can prove that it was not informed about the relevant Defects on time and that if it had been informed in a timely manner it would have repaired the Defects at least as quickly.

9. Free delivery

9.1

Ordered Products shall be delivered free of charge at the location appointed by Gispen, unless expressly agreed otherwise in the Order. Contractor is obliged to provide sound and correct packaging as well as security and proper transport. Delivery in parts of ordered Products is only permitted if this is expressly stated in the Order.

9.2

All shipments shall include consignment notes and packing lists which shall always clearly and visibly display the following details, in addition to any other details required by Gispen:

- name and address of Contractor;
- Gispen's purchase and/or Order number with position number;

- delivery address;
- delivery date;
- marks and reference numbers of the packages;
- quantity and unit name;
- Gispen article code number; and
- description of the Products.

9.3

The delivery takes place entirely at the risk of Contractor.

10. Inspection and repairs

10.1

Gispen will inspect the ordered Products or Services within a reasonable length of time after the delivery or performance thereof.

10.2

Acceptance only means that according to Gispen's provisional assessment the apparent condition of the Products or the apparent performance or the apparent result of the Services is in accordance with the Order. In particular, acceptance does not prevent Gispen claiming Contractor has failed to fulfil its guarantee obligations stated in Article 8 or any other of its obligations towards Gispen.

11. Transfer of ownership and risk; right of retention

11.1

Gispen acquires ownership of the ordered Products after these have been delivered to it or as soon as the legal delivery (otherwise) takes place if this is earlier. Contractor always bears the risk of damage or loss of the ordered Products until these have been accepted in accordance with the provisions of Article 10.

11.2

If, in deviation to the provisions of Article 5.4, it is agreed that Products not yet completed will be paid for in full or in part at a time earlier than stated in this article, pursuant to its advance payment Gispen will, without another delivery act being required, acquire ownership of all Products, materials, raw materials and semi manufactured products that Contractor uses or designates for the execution of the Order unless insofar as this would be unreasonable in view of all circumstances. Contractor is required to keep these Products, materials, raw materials and semi manufactured products free of any encumbrances and to acquire third party rights and to keep these apart for Gispen.

11.3

Contractor has no right of retention or right of suspension in relation to the Products.

12. Items to be made available by Gispen

12.1

Gispen retains ownership of all items (hereinafter "Items") it makes available to Contractor in connection with the Order (including drawings, tools, equipment, materials or other devices). Except with the written approval of Gispen, the Contractor shall refrain from any such acts or omissions with regard to the Items as may cause Gispen to lose the ownership thereof by specification, accession or confusion

or in any other way whatsoever. Contractor has no right of retention or right of suspension in relation to the Items. Contractor will also refrain from infringing the intellectual property rights, copyright or any other right to the provided Items belonging to Gispen.

12.2

Contractor will insure the Items at its own expense for the benefit of Gispen subject to the customary conditions against all damage resulting from full or partial loss or damage regardless of the cause. Gispen has the right to inspect the relevant policy or policies in which Gispen should be named as a co-insured party.

12.3

Contractor shall return the Items in a good condition to Gispen unless Gispen issues other instructions. Contractor will use the Items entirely at its own risk; except in the event of gross negligence on the part of Gispen or its management staff Gispen is not liable for any disadvantageous effects of the use of the Items for Contractor or for third parties. Contractor will not use the Items for third parties, nor will it authorise or allow third parties to use the Items nor will it use the Items in connection with any purpose other than the correct execution of the Order.

13. Liability, force majeure and indemnity

13.1

Contractor executes the Order entirely at its own risk. All damage, both direct and indirect and including any damage resulting from lost profits, which is incurred by Gispen or by third parties in connection with the execution of the Order, will be compensated by Contractor, regardless of whether this damage is caused by the Contractor, its staff or by other parties involved by Contractor in the execution of the Order.

13.2

Except in the event of a non-attributable failure (hereinafter "force majeure") Contractor is fully liable for all damage that is incurred by Gispen or any third party as a result of any Defects in the Products delivered and/or the Services performed.

13.3

Force majeure is understood in any case not to include: shortage of personnel, labour strikes, sickness of personnel, late delivery and/or unsuitability of the equipment, raw materials or semi-manufactured goods or services, attributable failures or unlawful acts on the part of suppliers or third parties engaged by Contractor and/or liquidity or solvency problems on the part of the Contractor.

13.4

The provisions of Article 1 and Article 2 of this article also apply as a clause for injured third parties as referred to therein. Article 6:254(1) of the Dutch Civil Code does not apply. Contractor will indemnify Gispen against all third party claims filed against Gispen.

13.5

Contractor has taken out adequate insurance and will remain adequately insured for statutory and professional

liability and submit the policy conditions to Gispen on request. The Contractor undertakes – immediately after having been held liable by Gispen – to assign all claims regarding payment(s) of insurance money to Gispen at first request.

14. Dissolution

14.1

If Contractor fails to execute the Order properly or a term is exceeded in the execution of the Order or if it cannot be assumed that Contractor will execute the Order promptly and properly according to the standards of reasonableness, Gispen has the right, without this affecting its other rights, to fully or partly dissolve the Agreement without a notice of default being required, simply by giving Contractor verbal or written notice of such. Article 6:270 of the Dutch Civil Code does not apply.

14.2

In the event of (provisional) suspension of payments, bankruptcy, suspension of operations or liquidation of Contractor's company or (in the case of a natural person) on his or her death or in the event of Contractor's legal merger or if a significant part of the control of Contractor's company falls into other hands, the Agreement and agreements directly connected with the Agreement are dissolved by operation of law, unless within a reasonable time after Gispen becomes aware of the relevant fact Gispen announces that it wishes to continue the Agreement(s) in full or in part. Gispen is furthermore entitled (without a notice of default being required) to suspend any obligations in respect of Contractor under other Agreements or on any other grounds.

14.3

All claims that Gispen might have or acquire in the case referred to in paragraph 2 against Contractor will become immediately and fully due and payable.

14.4

On the grounds of a dissolution or at the start of the resolutive conditions, Gispen has the right to claim all its payments from Contractor as unduly paid. Insofar as at the time of the dissolution any performance already delivered by Contractor is not recoverable and is otherwise in accordance with the Order, Contractor has the right to payment based on the value that the performance has for Gispen established in accordance with the standards of reasonableness, to be set-off against Gispen's claim against Contractor with regard to the failure and/or the dissolution. Insofar as recovery is possible Gispen has the right either to decide to keep the performance delivered against payment as described above or to return this to Contractor for its account and risk, without prejudice to the possible exercise of its other rights.

14.5

If Gispen owns Products that it wishes to return in accordance with the provisions of paragraph 4, even after the dissolution of the agreement under which it has acquired the Products, it retains the ownership thereof, the above within the limits established by Article 3:92(2) of the Dutch Civil Code, as security for the payment of any amounts it can claim against Contractor. If Gispen owns the Products,

at its first request the Products will be pledged to Gispen also as security for payment.

14.6

A dissolution as referred to in paragraph 1 or in paragraph 2 will not cause the rights of Gispen as established in Articles 5.4, 5.5, 5.6, 12, 14.3, 14.4, 14.5, 14.6, 15.2, 15.3, 15.4, 16 and 19 to lapse.

15. Intellectual property

15.1

Contractor grants to Gispen a non-exclusive licence for its intellectual property rights relating to the Products and/or Services, including but not limited to rights relating to patents, (utility) models, trademarks and know-how. On grounds of these licences Gispen has the right to use the Products or instruct such use, (including changing, processing, handling and repairing the Products or issue instructions for such) and Gispen is furthermore authorised to deliver or loan the products to third parties, whether or not as a component part of other goods. The payment for these licences is included in the price. If under any legal system for establishing and/or effecting these (licence) rights another (legal) act should be required, Contractor will inform Gispen of this fact and will provide Gispen all the necessary cooperation.

15.2

All intellectual property rights with regard to the results of Services are held by Gispen. If under any legal system for establishing and/or effecting these another (legal) act should be required, Contractor will inform Gispen of this fact promptly and will provide Gispen all the necessary cooperation.

15.3

Contractor guarantees that the Products and Services do not infringe the intellectual property rights held by Gispen or by a third party and indemnifies Gispen and its customers with regard to such infringement, comparable claims in respect of know-how, unlawful competition and such like included.

15.4

The Contractor undertakes, at its own expense, to take all measures that can contribute to the prevention of stagnation at Gispen and to limit the additional costs to be incurred by Gispen and/or damages to be suffered.

16. Accepting work

16.1

This article applies to all Contractor's work that qualifies fully or in part as accepting work under Article 7:750 of the Dutch Civil Code.

16.2

Completion of (any part of) the work is deemed to have occurred when Gispen has declared its acceptance explicitly in writing. Earlier use by Gispen shall not constitute acceptance.

16.3

Contractor guarantees that in relation to the work all applicable statutory regulations, regulations established by the Labour Inspectorate and safety regulations applying on site will be strictly observed.

16.4

If Contractor is a subcontractor of Gispen, Contractor is deemed to be aware of all regulations, conditions and provisions which on grounds of the subcontractor agreement concluded by Gispen, Gispen is required to comply with and to observe. Gispen requires Contractor to comply with these regulations, conditions and provisions unless otherwise agreed.

16.5

Contractor undertakes towards Gispen to fulfill its statutory obligations for the payment of national insurance contributions and wage tax and to comply strictly with all applicable Collective Labour Agreement provisions.

16.6

Contractor will keep such records that the actual wage costs and all the other costs to which the Dutch Liability of Subcontractors Act applies can be established per project. Gispen has the right to inspect Contractor's records at any time or to instruct such an inspection. Contractor will state in its invoice the actual wage costs as referred to in this paragraph. Forty percent of these actual wage costs will be transferred by Gispen to the Contractor's G account. The amount deposited into this G account is intended for wage tax and social security charges. On request Contractor will submit to Gispen the original of a recent Declaration of Payment History (not older than three months) from the Industrial Insurance Board and the Dutch Tax and Customs Administration, which states that in respect of Contractor's staff and third parties engaged by Contractor in relation to (the execution of) the work, payment of taxes and social security contributions has been made.

16.7

Unless agreed otherwise and without prejudicing that which is otherwise provided in Article 5 in relation to payment, the contract price will be invoiced as follows:

- Five percent at the conclusion of the agreement;
- Twenty percent at the start of the work;
- Seventy-five percent on the completion and delivery of the work

17. Lending of labour

17.1

This article applies to all lending of labour by Contractor to Gispen.

17.2

All Contractor's staff or third parties falling under the responsibility of Contractor which Contractor lends to Gispen for the execution of an Agreement will (continue to) perform their work under the authority of Contractor and/or by order of Contractor in the operation of its business activity. An employment relationship will never be created at any time between this staff and/or third parties and Gispen.

17.3

Contractor will indemnify Gispen against any claims of its staff and/or third parties working for it referred to in paragraph 1.

17.4

Contractor guarantees that it has the required permits for lending labour.

17.5

Article 16.5 applies mutatis mutandis to the lending of labour.

18. INCOTERMS

Terminology used by parties with regard to the supply and delivery of Products will always be interpreted based on the most recent version of the INCOTERMS.

19. Applicable Law and Competent Court

19.1

These general terms and conditions and all Orders and Agreements are governed by the law of the Netherlands. However in relation to agreements as referred to in Article 6:247(2) of the Dutch Civil Code it is explicitly stated that Section 3 of Title 5 of Book 6 of the Dutch Civil Code does not apply.

19.2

Third parties do not become a party to any Agreement between Gispen and Contractor on the basis of an implicit or explicit third-party clause in these Terms and Conditions or the Agreement. Article 6:254(1) of the Dutch Civil Code does thus not apply.

19.3

The applicability of:
the Convention on a Uniform Law for the Conclusion of Contracts for the International Sale of Goods relating to Tangible Moveable Goods dated 01.07.1964; the Convention on a Uniform Law for the International Sale of Goods relating to Tangible Moveable Goods dated 01.07.1964; all (uniform) legislation drafted on the basis of these conventions in any country; and the Vienna Sales Convention 1980 (CISG); is explicitly excluded.

19.4

Insofar as any national or international mandatory legislative provision does not provide otherwise, each dispute between the parties will in first instance be heard exclusively by the competent court in Utrecht, the Netherlands, without prejudice to Gispen's right to submit the dispute to another competent court on grounds of national or international legislation instead.

19.5

Should one or more provisions of these General Terms and Conditions be null and void or annulled at any time, the other provisions of these General Terms and Conditions shall remain in full force.

19.6

If uncertainty exists regarding the interpretation of one or

more provisions of these General Terms and Conditions, then the explanation shall be found "in the spirit" of these provisions. In all cases the Dutch version of the terms and conditions prevails.

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