

## **GENERAL CONDITIONS FOR THE PURCHASE OF GOODS BY AND THE RENDERING OF SERVICES TO ROTTERDAM-RIJN PIJPLEIDING B.V.**

(these conditions are registered at the Chamber of Commerce in Rotterdam on 1 May 2017, with reference number 27059206)

### **1 GENERAL**

- 1.1 These general conditions apply to all offers and orders for the sale of goods and/or the rendering of services by a supplier thereof (hereafter: Supplier) to Rotterdam-Rijn Pijpleiding (hierna: RRP), and to all agreements entered into with RRP in this regard. In these conditions the term services is understood to include engineering and calculation services, transport and contracting for work.
- 1.2 The applicability of conditions of the Supplier is hereby expressly excluded.
- 1.3 Provisions deviating from these general conditions can be invoked by the Supplier only if and to the extent that these provisions are accepted by RRP in writing.
- 1.4 The general conditions shall also apply to all future offers to and agreements with RRP.

### **2 OFFERS, CONCLUSION OF THE AGREEMENT**

- 2.1 All offers by the Supplier are binding and irrevocable.
- 2.2 The agreement shall only take effect after and in the manner in which RRP lays it down in writing.
- 2.3 Parties may only rely on changes, amendments or additions to the agreement if and to the extent they are accepted by the parties in writing.
- 2.4 In the absence of a binding agreement, the execution of supply of goods, works or services shall be for the full risk and account of the Supplier.

### **3 PRICE**

- 3.1 The agreed price is exclusive of V.A.T. but inclusive of all other costs and rights, adequate packaging, inspections, tests, certificates, (un)loading, delivery and transport charges, cost of insurance, assembly and the like.
- 3.2 The agreed price is fixed for the duration of the agreement.
- 3.3 All prices offered to RRP are not based on cost-determining factors. Accordingly, the agreed price is not subject to any increase of cost-determining

factors occurring before delivery or, in case of delivery in parts, during delivery, unless parties agree otherwise in writing.

- 3.4 If, in deviation of clause 3.1 of these conditions, parties explicitly agree to a contract price on a hourly-spent basis, the number of worked hours, costs and depreciation for wear and tear of (construction) equipment, time spent on preparation and formalities on the working site, waiting hours, costs for auxiliary materials and the like are included in the hourly rate. Deviating hourly rates for execution of works outside the normal working hours as expressed in clause 6.2 of these conditions, only apply if and to the extent accepted by RRP in writing.

#### **4 PAYMENT**

- 4.1 The Supplier will invoice RRP in accordance with the agreed payment schedule or, if no payment schedule is agreed upon, after delivery.
- 4.2 The invoices of the Supplier shall include: (i) the invoice numbers, (ii) the order numbers of RRP, (iii) the amount of VAT together with the Supplier's VAT number, (iv) copies of the time/material sheets earlier approved by RRP on which the Supplier has relied in calculating the amount of the invoice if no fixed price for the services or works has been agreed, (v) reference to the applicable installment of the payment schedule, (vi) the G account number and (vii) details as to name, address and place of residence of all of Supplier's personnel and any of its subcontractors possibly engaged. Invoices which do not comply with these requirements shall not be paid by RRP.
- 4.3 RRP will pay the Supplier within 30 days of the receipt and approval of an invoice by RRP.
- 4.4 Payment does not imply approval, acceptance and / or delivery of (parts of) the delivered goods and performances.
- 4.5 The Supplier warrants to bear and pay all taxes, social security contributions, duties, levies and charges assessed by competent authorities in connection with the supply of goods and/or services. The Supplier shall be liable for and hold RRP harmless from all costs and damages, including interest, penalties and costs, incurred by RRP in relation to any claims of third parties resulting from the Supplier's non compliance with such laws. Without prejudice to the foregoing, RRP may pay and/or reserve 50% of the amounts invoiced (i) on a blocked account (a so called "G-rekening") of the Supplier or (ii) directly to the tax and other authorities, on behalf of the Supplier, in order to meet with the payment obligations related to such taxes and social security contributions. RRP shall be discharged from its payment obligations towards the Supplier by such payment.
- 4.6 The Supplier is prohibited from assigning its claims on RRP to third parties without the written permission of RRP.

4.7 RPP is at all times entitled to set off all that it owes to the Supplier with any amounts the Supplier (or its affiliate) owe(s) or shall owe to RRP, whether or not due, or subject to condition or a time limit. The Supplier is only authorized to any set-off solely after written permission of RRP.

## **5 DELIVERY**

5.1 Delivery of goods to be manufactured, sold and / or delivered shall take place on the basis of the INCO term DDP (Delivered Duty Paid) in accordance with the INCO-terms that apply at the date of the agreement.

5.2 The agreed delivery date (or, as the case may be, completion date) is of the essence. The Supplier is automatically in default, without any notice of default being required, if the agreed date of delivery (or, as the case may be, completion date) is not met.

5.3 The Supplier shall timely and adequately inform RRP in advance of the exact time of delivery and possible delays in delivery. The Supplier shall upon request provide RRP with a production and/or implementation plan, furnish progress reports and / or lend their assistance to enabling RRP to verify the actual progress made.

5.4 When the Supplier encounters a delay in delivery, it shall as soon as practicable, but latest within 3 (three) days, give written notice to RRP of such occurrence. The notice shall specify: (i) the circumstances, (ii) the likely duration of the circumstances and (iii) a recovery plan with the steps necessary to remedy such occurrence.

5.5 Deliveries in parts or deliveries scheduled before the agreed date of delivery require RRP's prior written approval.

5.6 All documentation related to the goods and/or services such as test , inspection and quality certificates, packing lists, drawings, maintenance and instruction manuals, lists of spare parts and the like shall be furnished to RRP on or before delivery.

5.7 Goods, works or services shall be deemed to be delivered only if delivered complete and fully in accordance with the agreement

5.8 The delivery is completed only if the agreed goods and/or or services are delivered in their entirety and fully in accordance with the agreement at the location designated by RRP

## **6 PLANNING**

6.1 The Supplier shall conform to the working hours and/or planning – and any changes thereto – of RRP. The Supplier shall plan its activities in such way that

the activities of RRP and other (sub)contractors of RRP are not interrupted or disturbed.

- 6.2 The Supplier shall perform its services on week-days between 8.00 and 18.00 hours only. Performance outside these normal working hours is only permitted to the extent necessary and with RRP's prior written approval.

## **7 PACKAGING AND TRANSPORT**

- 7.1 The goods must be marked to RRP's instructions and must be properly packed according to the requirements of transport and destination. The goods shall be packed in a way to prevent damage or deterioration during transport.

- 7.2 All packaging used shall be taken back by the Supplier upon first request of RRP.

## **8 CHANGES/EXTRA WORK**

- 8.1 The Supplier shall not make any changes in designs or specifications of RRP except with the written consent or at written request of RRP.

- 8.2 The Supplier shall at all times make technically feasible changes in or additions to agreed goods or services, as desired by RRP.

- 8.3 Changes and additions shall not lead to an increase in the agreed price or extension of the agreed time of delivery unless and to the extent reasonable, and provided that RRP accepted in writing a written proposal of the Supplier to RRP with respect to such increase or extension.

## **9 INFORMATION, SPECIFICATIONS AND DRAWINGS**

- 9.1 The Supplier shall be responsible for the accuracy of the specifications, designs, drawings, engineering and any other information provided by RRP.

- 9.2 The Supplier shall verify the accuracy and completeness of all specifications, designs, engineering, drawings and other information provided by RRP and shall notify RRP of the results of such verification. The Supplier shall notify RRP of any shortcomings and/or defects in the specifications, designs, drawings, engineering and any other information provided by RRP, among which any shortcomings and/or defects related to quantities or the absence of information in the survey documentation. The Supplier shall never be relieved from its obligations related to the performance of the agreement, if any information provided by RRP is inaccurate or incomplete.

- 9.3 The Supplier is liable for any damage resulting from failures, shortcomings or defects in drawings, calculations, engineering, design and implementation

documentation furnished by the Supplier. Approval thereof by RRP does not release the Supplier from any obligation or liability.

## **10 EXECUTION AND COMPLETION OF WORKS**

- 10.1 Prior to the execution of the works, the Supplier shall furnish a detailed working plan in which the Supplier describes the order, timing and duration of the site works for the assessment and approval of RRP. As soon as RRP has approved such working plan, the working plan forms an integral part of the agreement. Deviation from the approved working plan is only permitted with the prior written approval of RRP.
- 10.2 The Supplier shall execute the works in such manner that the works are completed with the agreed time for completion.
- 10.3 The Supplier warrants that the works shall be executed and completed (i) in accordance with the principles of due care and diligence and free of any discrepancies or defects (ii) in accordance with the requirements as set forth in the agreement, (iii) in accordance with the generally accepted industry standards and principles and (iv) in accordance with the applicable laws and regulations.
- 10.4 The Supplier warrants that it has obtained all permits for execution of the works, unless explicitly agreed otherwise.
- 10.5 In addition to clause 5.7 of these general conditions, works executed by the Supplier are only completed after inspection and acceptance by RRP.
- 10.6 Inspection of the works executed by the Supplier takes place on the dates and times indicated by RRP. The results of the inspection shall be recorded in a protocol of completion or protocol of acceptance. The Supplier shall remedy any defects and/or discrepancies as laid down in the protocol of completion (or acceptance as the case may be) without costs within 30 days.
- 10.7 Acceptance of the works takes place through explicit notification by RRP. Usage, taking into possession of the works or failure to complaint shall not constitute completion of delivery or acceptance of the works.

## **11 SUPPORTING MATERIALS, TOOLS, ENERGY ETC.**

- 11.1 The Supplier shall provide at its costs for all the auxiliary materials, tools, (personal protection) equipment including appropriate clothing and safety devices necessary for the execution of the agreement.
- 11.2 If by or on behalf of RRP auxiliary materials, tools, (personal protection) equipment or gas, electricity, light or water is made available to the Supplier, RRP is entitled to charge the costs thereof to the Supplier. The use of the

materials, tools, (personal protection) equipment or energy made available shall be for the own risk and account of the Supplier.

## **12 CONTRACTING OUT**

- 12.1 Without the prior written approval of RRP, the Supplier may not assign or subcontract the execution of the agreement in whole or in part to any third party, or make use of personnel of third parties.
- 12.2 Approval by RRP as referred to above shall not release the Supplier from any obligation under the agreement.

## **13 INSPECTION AND TESTING**

- 13.1 RRP is at all times, consequently also ad interim, entitled to inspect or to have inspected or to test or to have tested or to try out or to have tried out all goods and services, irrespective if where these goods are located or where these services are provided.
- 13.2 RRP is entitled to instruct suspension or termination of the Supplier's services if the results of the inspection, testing and/or trying out are not satisfactory to RRP.
- 13.3 Inspection, testing, trying out, purchase and payment by or on behalf of RRP do not discharge the Supplier from any obligation or liability.

## **14 RISK AND TITLE**

- 14.1 The Supplier warrants that the goods are not subject to any encumbrances, retention of title or any other (limited) rights of third parties.
- 14.2 Goods to be delivered and/or goods (of RRP) in respect of which works or services are supplied shall be for the account and at the risk of the Supplier until completion of delivery in accordance with clause 5.7 and clause 10.5 respectively. The title to the goods (to be) supplied to RRP, transfers to RRP, at the latest when these goods are placed at a location designated by RRP.
- 14.3 If RRP makes any payment prior to delivery and acceptance, the title to the goods in respect of which such payment was made, and/or the parts or materials present at the Supplier's site that pertain to these goods shall pass to RRP at the time of payment. The Supplier shall identify and keep identifiable the goods it holds on behalf of RRP. The Supplier shall be considered to hold the goods on behalf of RRP.

## **15 INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

- 15.1 The Supplier warrants that (the use of) the goods delivered or services supplied does not infringe any intellectual or industrial property right. The Supplier shall

indemnify and hold RRP harmless for and against any claim by third parties in this respect, and pay any loss or costs incurred on the part of RRP in that respect.

- 15.2 Drawings, illustrations, designs, models, calculations, operating procedures, tools etcetera furnished by RRP or manufactured under instructions of RRP or made by or on behalf of the Supplier in connection therewith, and the intellectual and industrial property rights related thereto, shall vest in RRP only. RRP shall be considered as their maker and designer, all irrespective of whether they have been separately charged to RRP. The Supplier hereby to the extent necessary and possible transfers these rights to RRP and shall do all what is necessary or conducive to enable RRP to exercise these rights.

## **16 CONFIDENTIALITY**

- 16.1 The Supplier undertakes to keep strictly confidential all business and technical information originating from RRP and all information it has acquired in the framework of implementing the agreement. The Supplier undertakes to impose the same obligations on any employees and third parties which obtain the confidential information for the execution of the agreement and warrants that such employees and third parties will comply with such obligations.

## **17 WORKING SITE**

- 17.1 The Supplier is considered to be completely familiar with (the condition of) the working site where the Supplier shall perform its works and to have acquired all information necessary for the execution of the agreement.
- 17.2 The Supplier should allow RRP and third parties executing works on the working site where the Supplier is also executing its works and it shall provide them unlimited access and opportunity to do so.
- 17.3 The Supplier shall keep the working site free from any debris and waste materials and leave the working site in clean and proper condition after completion of the works.
- 17.4 RRP is not obligated to provide for security or to protect the working site, the goods manufactured and to be delivered and sold to RRP and which are located at the working site, as well as auxiliary materials and equipment.

## **18 BUSINESS CONDUCT, SAFETY AND ENVIRONMENT**

- 18.1 The Supplier, its employees and any third party it engages shall comply with all rules and regulations on safety and the environment, and with all codes of conduct, rules and regulations pertaining to the relevant safety, health and environment policy which are in place at the location where the works are executed, among which (i) the Code of Conduct of RRP and (ii) RRP's General

Conditions on Safety, Health and Environment (both published at RRP's website [www.rrpweb.nl](http://www.rrpweb.nl)). Costs related to the compliance with these rules are for account of the Supplier.

## **19 WARRANTY**

- 19.1 The Supplier warrants that all goods delivered and services supplied shall be first class in terms of design, construction, performance, material, composition and quality, in accordance with the requirements of proper and sound workmanship and in accordance with drawings, other documentation and the standards and specifications used by RRP, fit for the intended use, safe and in conformity with any government regulation.
- 19.2 A warranty period under the agreement shall mean a term from delivery within which the Supplier is required to arrange for repair of any failure or defect or redelivery at no charge, irrespective of the cause of the failure, and without prejudice to Supplier's liability under the agreement.
- 19.3 If the agreement does not specify a warranty period, the warranty period for delivery of goods shall be 12 months from the date of delivery and 24 (twenty-four) months from the date of delivery for the supply of services.
- 19.4 If pursuant to this clause (parts of) goods delivered and/or services supplied are replaced or repaired, the full warranty period shall apply to these (parts of) goods and/or services as from the time of redelivery or repair.
- 19.5 The Supplier (hereby) assigns all rights under warranties given by manufacturers or suppliers of goods, works or services forming (part of) the goods and services delivered to RRP. RRP (hereby) authorizes the Supplier to rely on such warranty rights, if necessary for the fulfillment of Supplier's obligations under this clause 19.

## **20 LIABILITY**

- 20.1 The Supplier is liable for all costs and damage, including third party claims, caused by the Supplier, its personnel, the persons and companies it engaged and/or by any defect in the goods delivered or services supplied.
- 20.2 Notwithstanding the Supplier's liability under 20.1, the Supplier and RRP shall have no liability to each other for any loss of profit, loss of production, loss of use, loss of income and loss due to business stagnation.

## **21 SUSPENSION/RESCISSION/TERMINATION**

- 21.1 RRP is entitled to suspend its obligations pursuant to the agreement or to rescind or terminate the agreement in whole or in part (hereinafter: termination) by means of a written notice and without any prior notice of default being



required, if and when the Supplier fails to timely or adequately fulfill any of its obligations towards RRP, as well as in case of moratorium or bankruptcy of the Supplier, attachment of (a part of) the Supplier's property or the goods intended for the execution of the agreement, closing down or liquidation of its business. In these cases RRP is only obligated to pay the Supplier the pro rata price for the goods already delivered or services already provided, but with respect to the goods delivered, only in as far as RRP desires to keep the goods and with respect to the services provided, only in as far as those services have been of actual use to RRP, all this without prejudice to RRP's right to compensation of any damages to which it is entitled by virtue of clause 20 of these conditions.

- 21.2 If and when the Supplier fails to timely or adequately fulfill any of its obligations towards RRP, RRP is, in addition to its rights pursuant to clause 21.1, entitled to suspend the works of the Supplier or part thereof, to order the Supplier to evacuate and remove from the working site, as well as to take the appropriate measures, including engaging third parties, at the expense and risk of the Supplier, which RRP considers necessary for the progress of the works. In these events, RRP shall inspect the goods and/or services already delivered, to be recorded by RRP in consultation with the Supplier, with reference to the quantities, their estimated value and an overview of the defects. The Supplier is liable for all costs and damages resulting from these measures by RRP.
- 21.3 Non-timely fulfillment as referred to in clause 21.1 also is deemed to occur in case of delay in production or implementation of schedules received or prescribed by RRP, or if the presumption is reasonably justified by the relevant facts that a delay will occur in the fulfillment of (part of) any obligation under the agreement.
- 21.4 If RRP or the Supplier is prevented by force majeure from fulfilling its obligations under the agreement for more than 60 (sixty) days, both parties are entitled to terminate the agreement by means of a written declaration, against payment of the pro rata price for the goods already delivered or the services already provided, if RRP keeps the goods or the benefit of the services delivered.
- 21.5 Apart from the above, RRP is entitled to terminate the agreement by means of a written declaration against payment of the pro rata price for the goods proven already delivered or the services proven already provided, and if the Supplier demonstrates that it has suffered damages or loss as a consequence, increased with a surcharge of a maximum of 5% of the balance price as a compensation for damages and loss (including loss of profit). Each claim of the Supplier to further additional or alternative damages is excluded.

## **22 INSURANCES**

- 22.1 The Supplier shall obtain and maintain in effect throughout the duration of the agreement adequate and sufficient insurance to cover its liabilities under the

agreement for the goods to be manufactured and delivered and the services to be supplied, including but not limited to: (i) a public liability policy with a minimum limit of 5 million Euro per occurrence against liability for death and injury, liability for property damage and liability for financial loss; (ii) to the extent applicable for the performance of the services, a professional indemnity policy with a minimum limit of 5 million Euro per occurrence; and (iii) all other insurances required in accordance with the applicable law.

22.2 Unless agreed otherwise, RRP shall be co-insured under the Supplier's insurance policy. At RRP's sole discretion, and if and in so far RRP has confirmed such coverage in writing, RRP shall obtain and maintain a (long-term) CAR insurance (Construction All Risk). Upon request of the Supplier, RRP shall furnish a copy of the policy to the Supplier.

22.3 The Supplier shall furnish promptly to RRP reasonable evidence of the existence of the insurance coverage. Upon first request of RRP, the Supplier shall furnish written evidence of payment of the insurance premiums by the Supplier.

## **23 DISPUTES AND APPLICABLE LAW**

23.1 All disputes that may arise between the parties shall be dealt with exclusively by the competent court in Rotterdam.

23.2 All relationships between RRP and the Supplier, including the agreement, shall be governed by the laws of the Netherlands. The applicability of the UN Convention on Contracts for the International Sale of Goods from 1980 is explicitly excluded.