



GBS INTERNATIONAL B.V.

General Terms and Conditions of Purchase

April 2020

Article 1 – Definitions

- 1.1 GBS International's General Terms and Conditions of Purchase (**Conditions**) apply to all offers to and agreements with GBS International B.V. and its legal successors, as well as to associated companies (together: **GBS INT**) relating to any supply of goods (**Products**) by the Offeror or any other party involved with the Products (the **Supplier**).
- 1.2 The applicability of the general terms and conditions of Supplier is explicitly rejected. Any deviation from the Conditions, unless approved in writing by the board of directors of GBS INT, shall be deemed null and void.

Article 2 – Orders

- 2.1 Unless agreed otherwise in an agreement as defined in Article 3.2, orders, requests, notices, information, statements or other declarations made by GBS INT or supplied by GBS INT to the Supplier, irrespective of the nature or form of such, shall only provide an indication and shall never bind GBS INT.

Article 3 – Agreement

- 3.1 An agreement, including any changes and/or additions thereto, shall not be binding unless agreed upon in writing, and until such moment in time, the obligations of the Supplier and GBS INT will be determined on the basis of the Purchase Confirmation sent by GBS INT to the Supplier.
- 3.2 An agreement only commits GBS INT when the contract is duly signed by the board of directors of GBS INT and by Supplier, or on the date of dispatch by GBS INT of the purchase/order confirmation (**Purchase Confirmation**), duly signed by its board of directors. Unless confirmed in writing by the board of directors of GBS INT, promises made by and arrangements with subordinates of GBS INT shall not bind GBS INT.
- 3.3 Supplier must procure the permissions, permits and/or licenses required for the execution of an agreement in time and at his risk and expense, and is liable for any failure to do so, and will indemnify GBS INT for any and all damage and costs arising from such failure.
- 3.4 Any cancellation by the Supplier shall be null and void, except and to the extent that GBS INT has agreed to such cancellation in writing.

Article 4 – Products

- 4.1 Supplier guarantees that the Products (including packaging thereof) can and may be sold in any jurisdiction worldwide, without any infringement of the rights of a third party or any applicable law or regulation, unless otherwise notified in writing by Supplier, at the latest before dispatch of the Purchase Confirmation. Supplier shall in particular indemnify and hold harmless GBS INT from any and all claims by third parties in respect of industrial and intellectual property rights relating to the Products.
- 4.2 Without prejudice to the generality of article 4.1, whenever Supplier offers the Products to GBS INT for delivery within the territory of the European Economic Area (**EEA**), Supplier guarantees that the Products have an original T2-status and are fit for sale as such within the EEA.

- 4.3 Supplier shall, immediately on request of GBS INT, supply the names and other details of all underlying documents of its own suppliers to GBS INT.
- 4.4 GBS INT has ownership of all intellectual property rights that result from the implementation of the agreement by Supplier.
- 4.5 Any costs made by GBS INT regarding non- fulfilment, overdue or insufficient fulfilment of Supplier's obligations, including extrajudicial collection costs and costs of legal assistance, shall be due and payable by the Supplier.

Article 5 – Prices

- 5.1 Unless otherwise expressly agreed upon in writing, all prices shall be fixed and inclusive of turnover tax, import and export duties, excise duties and all further levies and taxes in connection with or in relation to (the delivery of) the Products,
- 5.2 There shall be no adjustment or settlement of any agreed price in the event of increase of wages, prices of materials and the like.
- 5.3 Costs of offers, samples, trial shipments and specimens will be at the expense of Supplier, unless otherwise expressly agreed upon in writing.

Article 6 – Terms and conditions of delivery

- 6.1 Unless explicitly agreed otherwise, any delivery shall be made "Delivered Duty Paid" (**DDP**) at the place designated by GBS INT. The terms and conditions of delivery shall be interpreted in line with the most recent issued edition of the ICC Incoterms at the time of the conclusion of the agreement. In case of conflict between the ICC Incoterms and these Conditions, the latter shall prevail.
- 6.2 Supplier shall ship and deliver the Products on the date or term specified in the agreement and failing a specified date, within fifteen (15) days. A delivery term in the agreement shall commence on the date of conclusion of the agreement. Such date or term shall apply as a final delivery date or term.

Article 7 – Transportation and unloading

- 7.1 Transportation and unloading of Products shall be at the expense and risk of Supplier in accordance with the terms and conditions of delivery as in Article 6.
- 7.2 Supplier can on no account claim any compensation of damage and costs as a result of any possible delay arising at the unloading of the delivered Products.
- 7.3 The signing of any arrival or delivery note or any similar instrument, or, as the case may be, the completion of an inspection report at delivery, solely confirms receipt of Products as packed, by such receiving party without inspection of the number of units and/or packages and does not imply any acknowledgement or approval of the quality, specifications or quantity of the delivered Products and does not discharge Supplier of any guarantee and/or liability.
- 7.4 Notwithstanding the agreed terms and conditions of delivery as in Article 6, Supplier shall always be obliged to provide the documentation needed to transport the Products to, and deliver them at, the place of destination.

Article 8 – Quality

- 8.1 Supplier guarantees that the delivered Products:
- a) are genuine and originating from the manufacturer as stated on the packaging and labels, as well as in accordance with the quality intended by said manufacturer and without any faults;
 - b) are in accordance with the demands made in the agreement and/or, as the case may be, samples and/or pictures provided to and approved by GBS INT;
 - c) have the original batch and code numbers (such numbers being identical on the packaging of the goods and on the Products (bottles, labels) themselves) required to comply with tracking and traceability regulations;
 - d) are provided with the original and (as regards design and coloring: most recent) packaging and labelling of the manufacturer and/or IP right holder;
 - e) are manufactured by the brand owner or under a license agreement disclosed by the Supplier to GBS INT.

Article 9 – Inspection

- 9.1 GBS INT and/or any third party designated by GBS INT shall at all times have the right to inspect or to test the Products, wherever the Products may be. The result of inspection or test or the omission of GBS INT to have such an inspection or test conducted shall not discharge Supplier from its obligation of any guarantee and/or liability to meet the agreed specifications.
- 9.2 Supplier shall provide all information and facilities needed for an inspection or test, including the necessary help regarding employees and materials.
- 9.3 The personnel costs of GBS INT or the third party designated concerned, made in connection with an inspection or test, shall be payable by GBS INT. Any other costs shall be at Supplier's expense. If the Products are found to be counterfeit(ed), the Supplier shall be solely liable for costs arising out of or in connection with such finding, including, for the avoidance of doubt, GBS INT personnel costs, without prejudice to any other rights or remedies of GBS INT.
- 9.4 GBS INT shall inform Supplier of any rejection of Products. In that case, Supplier shall be bound to replace the rejected Products at his expense within a time limit to be stipulated by GBS INT, and in such a way that said Products do meet all the requirements of the Purchase Confirmation and these Conditions, without prejudice to any other rights of GBS INT. In case of rejection, Products already delivered must be taken back at GBS INT' request and at the expense of Supplier. Rejection shall also entitle GBS INT to suspend payment of the agreed price or installment.

Article 10 - Delivery and Acceptance

- 10.1 Supplier shall bear the risk for the Products until the moment when and the place where GBS INT takes possession of the Products (**Delivery**).
- 10.2 If GBS INT will be or will become owner of (a part of) the Products before the moment of delivery and approval, Supplier shall be obliged to identify these Products on behalf of GBS INT, to maintain them in a fit-for-sale condition as defined in article 4.1 and to insure, and keep insured, the Products for the benefit of those concerned.
- 10.3 In the event that GBS INT has paid the full purchase price for the Products before delivery of such Products has taken place (**Full Pre-Payment**), these Products shall become the property of GBS INT at the moment of Full Pre-Payment.

Article 11 – Payment

- 11.1 Unless explicitly agreed otherwise and notwithstanding any payment suspension rights of GBS INT, payment shall take place within sixty (60) days after the last of these moments in time:
- a) the moment of delivery of the Products;
 - b) the moment of approval of the Products by GBS INT;
 - c) the moment of receipt of an invoice by GBS INT.
- 11.2 Payment by GBS INT does not discharge Supplier of any guarantee and/or liability.
- 11.3 GBS INT shall be authorized to settle any amounts payable to Supplier or to parties associated with Supplier with any claims GBS INT (or any party associated with GBS INT) has on Supplier or any companies associated with Supplier, irrespective of the fact whether the amounts concerned are due or not.

Article 12 – Reparation and replacement

- 12.1 Supplier shall, in consultation with GBS INT, where requested by GBS INT remedy any and all defects in the Products and if GBS INT decides that repairs are not possible, replace said Products, without prejudice to Supplier's liability and any other rights GBS INT may have.

Article 13 – Liability

- 13.1 Supplier shall be liable for any and all damage and costs, included but not limited to loss of profit and consequential loss arising from defects to the Products or other shortcomings of Supplier and/or caused by natural persons employed with or legal entities affiliated with Supplier, whether attributable or not, and shall hold harmless and indemnify GBS INT against any and all claims by third parties in relation thereto.
- 13.2 A report of an independent expert concerning the relevant defects shall be conclusive evidence between GBS INT and Supplier in the event of a claim by GBS INT. Said report need not to include any information on the identity of the clients of GBS INT, nor on the place where the Products are located. Moreover, GBS INT shall not be bound to inform Supplier of such data.

Article 14 – Force majeure

- 14.1 The term force majeure in these Conditions shall mean any circumstance beyond the Supplier's control, whether or not foreseeable at the time of conclusion of the agreement, which temporarily or permanently prevents fulfilment of its obligation under the agreement concluded between GBS INT and the Supplier.
- 14.2 In the event that the Supplier suspends any of its obligations under the agreement due to force majeure for a period of in total three (3) months or more, GBS INT shall have the right to wholly or partially dissolve the agreement, without an obligation for GBS INT to pay any form of compensation and without any judicial intervention.

Article 15 – Confidentiality

- 15.1 The Supplier agrees that any commercial, strategic, technical data and/or other information in connection with the agreement including samples or other tangible materials (**GBS INT Confidential Information**) that is disclosed to or otherwise comes into possession of the Supplier, is to be treated as confidential. The Supplier agrees that GBS INT Confidential Information will be maintained strictly confidential and will not be disclosed to third parties.
- 15.2 The requirement to maintain information confidential shall not apply to GBS INT Confidential Information that:
- is generally available;
 - was in the possession of the Supplier prior to the time it was acquired in connection with the agreement; and
 - is required by law to be divulged on a non-confidential basis, provided that the Supplier notifies GBS INT of any such disclosure.

Article 16 – Disputes and applicable law

- 16.1 Any and all disputes shall in the first instance be submitted to the District court of Amsterdam. In order to secure the necessary recognition and enforcement of any claim awarded against a Supplier domiciled in a jurisdiction that does not allow for the recognition and enforcement of a Dutch court judgement, GBS INT may opt for arbitration if Supplier is domiciled outside of the European Union. In this case claims shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (**NAI**).
- 16.2 In the event of arbitration, the arbitral tribunal shall be composed of one arbitrator, unless the principal amount of the claim exceeds (the counter value of) EUR 1 million, in which case there shall be three arbitrators. The tribunal shall be chaired by an active or retired judge of a Dutch court. The arbitral tribunal shall be appointed according to the list procedure in force with the NAI. The place of arbitration shall be Amsterdam. The proceedings shall be conducted in the English language. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.
- 16.3 The agreement, as well as any and all further agreements arising or resulting from or in connection with said agreement, shall be governed by and construed in accordance with the laws of the European part of the Kingdom of the Netherlands.
- 16.4 Supplier and GBS INT exclude the applicability of the Vienna Sales Convention and any other future supra-national regulation on the purchase of moveable goods of which the applicability may be excluded.

Heerhugowaard, April 2020