



General conditions Purchase of Goods and Services

PART A - General conditions for the purchase of goods and services

We are pleased to be able to engage you for the purchase of goods and/or services. This document sets out the applicable general conditions.

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1 Definitions

- 1.1 “**Gate**” means only the legal entity specified as the purchaser in the purchase order or the agreement, being one of the following parties: Gate terminal B.V., any subsidiary or affiliate of Gate terminal B.V., any joint venture of the aforementioned parties or any other party that is part of the Gate Network (e.g. terminals operated by Gate but not majority owned).
- 1.2 “**Vendor**” means the party that supplies the goods, works, services and/or a combination thereof as specified in the agreement.

2 General

- 2.1 These general conditions Part A apply to all offers and orders for the supply to, construction and/or performance of goods, works, services and/or a combination thereof by Vendor to Gate and to all agreements entered into with Gate in this regard.
- 2.2 In addition to these general conditions Part A, Gate uses the following additional parts: (i) Part B – Additional general conditions for the purchase of equipment, (ii) Part C – Additional general conditions for the supply of site works, (iii) Part D – Additional general conditions for the supply of professional services, and/or (iv) Part E - Additional general conditions for the specific jurisdiction. These parts will only apply if this has been agreed by the parties. The applicable parts will hereafter be referred to as the “general purchase conditions”.
- 2.3 The applicability of conditions of the Vendor is hereby expressly excluded.
- 2.4 Parties may only rely on any provision deviating from these general purchase conditions if and to the extent parties agreed such provision in writing.
- 2.5 The general purchase conditions shall also apply to all future offers to and agreements with Gate.

3 Offers, conclusion of the agreement

- 3.1 All offers or acceptances of orders by the Vendor are binding and irrevocable.
- 3.2 Agreements are binding upon Gate only if and as accepted and/or confirmed and/or otherwise laid down by Gate in writing.
- 3.3 In the absence of a binding agreement as described in article 3.2 or an order of Gate, the execution of supply of goods, works or services shall be for the full risk and account of the Vendor and does not bind Gate except and insofar as Gate accepts in writing.

4 Price

- 4.1 The agreed price includes all costs and rights, proper packaging, inspections, tests, certificates, (un)loading and transport charges, cost of insurance, duties, taxes, social security contribution, required permits, (compliance with) safety instructions, all other delivery costs, all other items specified in the agreement and similar costs that Gate may reasonably expect to be included in the agreed price.
- 4.2 The agreed price is fixed and in no event subject to any price increase or surcharge.

5 Payment

- 5.1 The Vendor will invoice Gate in accordance with the agreed payment schedule.
- 5.2 The invoices of the Vendor shall include: (i) the invoice number, (ii) the order number, (iii) certified copies of the time/material sheets earlier approved by Gate on which the Vendor has relied in calculating the amount of the invoice if no fixed price for the services or works has been agreed, (iv) the amount of VAT together with the Vendor’s VAT number if VAT should be charged by the Vendor in accordance with the applicable legislation, (v) reference to the applicable part of the payment schedule, (vi) the G account number or local equivalent (if applicable) and (vii) details as to name, address and place of residence of all of Vendor’s personnel and any of its subcontractors engaged.
- 5.3 Gate will pay the Vendor within 30 (thirty) days of the receipt of an invoice complying with article 5.2.

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5.4 If Gate fails to pay the outstanding amount when due, the Vendor shall be entitled to charge interest to Gate on the outstanding amount which interest shall not exceed EURIBOR + 1%. Interest is only due as from 14 (fourteen) days after receipt by Gate of a written notice of default from the Vendor stating the outstanding amount due together with the correct interest percentage that shall be charged. However, as long as Gate has reasonable grounds to dispute the invoice, no interest shall be due.

6 Delivery

6.1 Delivery of goods shall take place on the basis of the INCO term DDP (Delivered Duty Paid) that applies at the date of the agreement.

6.2 The agreed delivery date is of the essence. The Vendor is automatically in default, without any notice of default being required, if the agreed date of delivery is not met.

6.3 The Vendor shall timely and adequately inform Gate in advance of the exact time of delivery and possible delays in delivery. The Vendor shall upon request provide Gate with a production and/or progress planning and shall enable Gate to verify the actual progress made.

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

6.5 Partial deliveries or deliveries scheduled before the agreed date of delivery require Gate's prior written approval.

6.6 Goods, works or services shall be deemed to be delivered only if delivered complete and fully in accordance with the agreement and including all related documentation such as test, quality, inspection and warranty certificates, drawings, maintenance and instruction manuals, user guides and, if applicable, signed certificates of acceptance.

6.7 The Vendor is responsible for obtaining all applicable certificates and all necessary approvals, import licenses, custom clearing and satisfying all excise duties.

7 Planning

7.1 The Vendor shall conform to the working hours and/or planning of Gate. The Vendor shall plan its work in such way that the activities of Gate and other (sub)contractors or suppliers of Gate are not interrupted or disturbed.

7.2 For peak times the Vendor shall provide for extra labor and have activities carried out in overtime or in shifts to the extent necessary for delivery in time to Gate and/or securing proper progress of the activities of Gate and other (sub)contractors or suppliers.

8 Packaging and transport

8.1 The goods must be marked to Gate'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.

8.2 All packaging used shall be taken back by the Vendor upon first request of Gate.

9 Supporting materials, tools, energy etc.

9.1 The Vendor shall provide for all the auxiliary materials, tools, (personal protection) equipment including appropriate clothing and safety devices necessary for the execution of the agreement.

9.2 If by or on behalf of Gate auxiliary materials, tools, (personal protection) equipment or gas, electricity, light or water is made available to the Vendor, Gate is entitled to charge the costs thereof to the Vendor. The use of the materials, tools, (personal protection) equipment or energy made available shall be for the own risk and account of Vendor.

10 Contracting out

10.1 Without the written approval of Gate, the Vendor 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.

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10.2 Approval by Gate as referred to above shall not release the Vendor from any obligation under the agreement.

11 Inspection and testing

11.1 Gate is at all times and at any place entitled to (procure to) carry out inspections, tests and audits with regard to the goods, works or services ordered.

11.2 Inspection and/or testing by or on behalf of Gate do not release the Vendor from any obligation, warranty or liability.

12 Risk and title

12.1 Vendor warrants that the goods are not subject to any retention of title or any other (limited) rights of third parties. Upon the request of Gate, Vendor shall deliver proof of its full and unencumbered title to the goods.

12.2 Goods to be delivered and/or goods (of Gate) in respect of which works or services are supplied shall be for the account and at the risk of the Vendor until completion of delivery in accordance with article 0. The title to the goods (to be) supplied to Gate, transfers to Gate, at the latest when these goods are placed at a location of Gate or any of its agents or contractors.

12.3 If Gate 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 Vendor's site that pertain to these goods shall pass to Gate at the time of payment. The Vendor shall identify and keep identifiable the goods it holds on behalf of Gate and give Gate free access to and control of such goods. The Vendor shall be considered to hold the goods on behalf of Gate and shall undertake to have the goods insured adequately with a reputable insurance company until the completion of the delivery as defined in article 6.6.

13 Intellectual and industrial property rights

13.1 The Vendor warrants that (the use of) the goods delivered and works or services supplied does not infringe any intellectual or industrial property right. The Vendor shall indemnify and hold Gate harmless for and against any claim by third parties in this respect, and pay any loss or costs incurred on the part of Gate in that respect.

13.2 Drawings, sketches, illustrations, designs, models, calculations, formulas, working methods, equipment and other such information and tools furnished by Gate or made under orders of Gate or made by or on behalf of the Vendor in connection therewith, and the intellectual and industrial property rights related thereto, shall vest in Gate only. Gate shall be considered as their maker and designer, all irrespective of whether they have been separately charged to Gate. The Vendor hereby to the extent necessary and possible transfers these rights to Gate and shall do all what is necessary or conducive to enable Gate to exercise these rights.

14 Confidentiality

14.1 The Vendor undertakes to keep strictly confidential the materials and all business and technical information provided to it by or on behalf of Gate (together to be referred to as: the "Confidential Information") and undertakes to only use the Confidential Information for the execution of the agreement. The Vendor undertakes to impose the same obligations on any employees and third parties which obtain Confidential Information for the execution of the agreement and warrants that such employees and third parties will comply with such obligations.

15 Business conduct, safety and environment

15.1 The Vendor, its employees and any third party it engages shall comply with all applicable rules, including but not limited to the rules and instructions on safety and the environment, applicable at the location where the work is executed as well as the UN Vendor Code of Conduct (2006), the UN Convention on the Rights of the Child (1989), the International Labor Organization (ILO) and the Convention on Minimum Age against Exploitation of Child Labor (1973).

15.2 The Vendor, its employees and any third party it engages shall comply with all codes of conduct, rules and regulations Gate has in place pertaining without limitation to the relevant Safety, Health and Environment policy,

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the Gate Fundamentals on safety, the Gate Sustainability Policy and the Gate Code of Conduct (all published at Gate's website www.gateterminal.com under Corporate documentation), as may be amended from time to time.

16 Warranty

- 16.1 The Vendor warrants that all goods delivered and works or services supplied shall be first class in terms of design, construction, performance, material, composition and quality in accordance with drawings, other documentation and the standards and specifications used by Gate, fit for the intended use, safe and in conformity with any government regulation, and that the goods delivered and works or services supplied are free from any defects in terms of design, construction, material or manufacturing.
- 16.2 Gate may rely on any warranty given or otherwise pertaining to the goods and/or works and/or services, irrespective of Gate having conducted any inspection or having filed any previous complaint.
- 16.3 A warranty period under the agreement shall mean a term from delivery within which the Vendor is required to arrange for repair of any failure or defect or redelivery at no charge and without prejudice to Vendor's liability under the agreement.
- 16.4 The warranty period on the part of the Vendor within which the Vendor is required to correct defects shall be at least 24 (twenty-four) months from the date of delivery.
- 16.5 If pursuant to this article (parts of) goods delivered and/or works and/or services supplied are replaced, repaired or altered, the full warranty period shall apply to these (parts of) goods and/or works and/or services as of the time of delivery.
- 16.6 If Vendor states that Gate is not entitled to invoke a warranty, Vendor shall have to proof the relevant facts.
- 16.7 Vendor (hereby) assigns all rights under warranties given by manufacturers or suppliers of goods, works or services forming (part of) the goods, works and services delivered to Gate. Gate (hereby) authorizes the Vendor to rely on such warranty rights, if necessary for the fulfillment of Vendor's obligations under this article 16.

17 Liability

- 17.1 The Vendor is liable for all costs and damages (including any third party claims) caused by the Vendor, its personnel, the persons and companies it engaged or by any defect in the goods delivered or works or services supplied, unless Gate agreed in writing to bear any specific costs. Vendor's liability for costs and damages under this article is however at all times limited to EUR 5,000,000 per event.

18 Taxes

- 18.1 The Vendor bears and shall pay all taxes, social security contributions, duties, levies and charges assessed on the Vendor, its subcontractors and the officers, employees and agents of the Vendor and the subcontractor, by competent authorities in connection with the supply of goods and/or works and/or services.
- 18.2 The Vendor warrants complying with the obligations arising from social security laws and tax laws. The Vendor shall be liable for and hold Gate harmless from all damages, including interest, penalties and costs, incurred by Gate in relation to any claims of the tax authorities resulting from the Vendor's non compliance with such laws. The vendor shall take all measures which Gate may reasonably require to avoid that it becomes liable for any claims and/or additional levies for social security charges and/or taxes related to personnel of or hired by the Vendor. The Vendor shall indemnify Gate against any claims and/or additional levies for social security charges and/or taxes related to the agreement.

19 Non-assignment

- 19.1 Without the written approval of Gate, the Vendor is not permitted to assign its claims against Gate to any third party.

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20 Suspension/Rescission/Termination

- 20.1 Gate is entitled to suspend its obligations in whole or in part and without any prior notice of default, if and when the Vendor fails to timely or adequately fulfill any of its obligations towards Gate, as well as in case of (filing a petition for) moratorium or bankruptcy of the Vendor, attachment of (a part of) the Vendor's property or the goods intended for the execution of the agreement, closing down or liquidation of its business.
- 20.2 Non-timely fulfillment as referred to in article 20.1 also is deemed to occur 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.
- 20.3 Gate is entitled to terminate the agreement in the events specified in article 20.1 if the failure and/or occurrence have not been fully remedied within a period of 14 (fourteen) days from Gate's demand. Gate may terminate the agreement without the observance of the 14 (fourteen) days period if the Vendor is already in default with respect to a contractual obligation. In the event of termination Gate is only obligated to compensate the Vendor at the pro rata price for works or services supplied and for goods already delivered, but only insofar Gate keeps the goods or the benefit of the works or services delivered, all this without prejudice to Gate's other right.
- 20.4 Gate is without cause and at any time entitled to terminate the agreement either in whole or in part by means of a 30 (thirty) days written notice. In this event, Gate is only obligated to compensate the Vendor at the pro rata price for works or services supplied or goods already delivered and for commitments already assumed by the Vendor for the execution of the agreement at the time of termination to the extent included in the agreed price. Gate is not liable for any other loss or damage suffered by the Vendor as a result of termination of the agreement
- 20.5 If due to an event of force majeure Gate or the Vendor is unable to fulfill its obligations under the agreement for a term exceeding 30 (thirty) days, either party shall be entitled to terminate the agreement by means of written notice against compensation at the pro rata price for works or services supplied or goods already delivered if Gate keeps the goods or the benefit of the works or services delivered.

21 Miscellaneous

- 21.1 Any reference in the general purchase conditions to Gate pertains to the user of these general purchase conditions or the legal entity that is specified in the order or accepted the order in writing only.
- 21.2 If a provision of the general purchase conditions is or becomes invalid or non-binding, the parties shall remain bound to the remaining part of the general purchase conditions. The parties shall replace the invalid or non-binding provision by a provision which is valid and binding, and the effect of which, given the contents and purpose of the general purchase conditions, is to the greatest extent possible, equal or similar to that of the invalid or non-binding part.
- 21.3 If the Vendor is of the opinion that a provision of the general purchase conditions conflicts with another provision of the general purchase conditions, it shall inform Gate thereof. Within 7 (seven) days thereafter Gate shall advise the Vendor which provision prevails, if Gate agrees that the provisions are conflicting.
- 21.4 If the agreement is a framework agreement, Gate terminal B.V., any subsidiary or affiliate of Gate terminal B.V., or any joint venture of the aforementioned partners and/or any other party that is part of the Gate Network (e.g. terminals operated by Gate but not majority owned) shall have without limitation the right to place orders under this agreement with application of the agreed terms and conditions, if and to the extent Gate approved the placing of such orders. The same applies to contractors of Gate who desire goods and/or services of the Vendor for delivery of goods and/or services to Gate. Gate shall not be liable in relation to orders placed under a framework agreement by any party other than Gate.
- 21.5 The obligations of the Vendor under article 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 will be of a continuing nature and survive the termination or expiration of the agreement.
- 21.6 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right power or remedy.
- 21.7 Except as otherwise provided in the general purchase conditions, the following principles shall be applied for the interpretation of these general purchase conditions: (i) the singular includes the plural and the plural the singular, (ii)

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references to "writing" include only letters (by courier, registered or unregistered), faxes and e-mail, (iii) the words "include", "including" and "includes" shall be deemed to be followed by the words "without limitation", and (iv) headings of clauses and annexes are for convenience only and shall not affect the interpretation of these general purchase conditions.

21.8 Each party must pay its own costs of negotiating, preparing and executing the agreement.

22 Applicable law and disputes

22.1 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 is explicitly excluded.

22.2 All disputes that may arise between the parties shall be exclusively settled by arbitration in accordance with the Rules of the Netherlands' Institute of Arbitration, unless Gate prefers any other forum that has jurisdiction. The arbitral tribunal shall consist of one or more (an uneven number of) arbitrators. The place of arbitration shall be Rotterdam or any other convenient place to be decided by Gate and the language of arbitration shall be English. The arbitral tribunal shall decide in accordance with the rules of law.