

General Terms and Conditions of Purchase



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PART I – Definitions and Scope

Article 1 Definitions

- 1.1 **Article:** an article as referred to in these General Terms and Conditions of Purchase.
- 1.2 **Service(s):** the service(s) to be performed and/or works to be carried out by the Counterparty for the benefit of LVNL under an Agreement.
- 1.3 **LVNL:** Air Traffic Control the Netherlands (Luchtverkeersleiding Nederland), the public legal entity established by the Aviation Act of 18 June 1992 (Bulletin of Acts and Decrees 1992, 368), having its registered office at Stationsplein Zuid-West 1001, 1117 CV Schiphol, the Netherlands.
- 1.4 **Delivery/Deliveries (Goods):** the goods to be supplied by the Counterparty for the benefit of LVNL under an Agreement.
- 1.5 **Additional Work:** goods to be supplied in addition and/or services or works to be performed in addition.
- 1.6 **Offer:** an offer within the meaning of the Dutch Civil Code.
- 1.7 **Request for Quotation (RFQ):** a single or multiple request from LVNL for the performance of Performances.
- 1.8 **Agreement:** any agreement concluded between LVNL and the Counterparty, by whatever name, concerning the Counterparty performing a Performance for or on behalf of LVNL.
- 1.9 **Party/Parties:** LVNL and/or the Counterparty.
- 1.10 **Personnel:** employees and other staff as well as third parties/auxiliaries engaged by the Counterparty in performing the Agreement.
- 1.11 **Performance:** the (to be performed) Delivery(ies) and/or Service(s).
- 1.12 **Counterparty:** the natural or legal person that is the counterparty of LVNL under the Agreement.

Article 2 Applicability of these Terms

- 2.1 These General Terms and Conditions of Purchase apply to LVNL's RFQs as well as to Agreements relating to Deliveries and/or Services.
- 2.2 Deviations from these General Terms and Conditions of Purchase shall only be effective between the Parties insofar as expressly agreed in writing by the Parties and then only in relation to the relevant (specific) Agreement.
- 2.3 LVNL expressly rejects the applicability of the Counterparty's purchase and delivery conditions, payment terms and other (whether or not general) terms and conditions, unless and to the extent expressly accepted in writing by LVNL.
- 2.4 In the event of any conflict between what has been specifically agreed between the Parties and these General Terms and Conditions of Purchase, the specific agreement shall prevail, without prejudice to Article 2.2.
- 2.5 If one or more provisions of these General Terms and Conditions of Purchase or of the Agreement are null and void or annulled, the remaining provisions shall remain in full force and effect. In the event of nullity or annulment, LVNL and the Counterparty shall consult in order to agree new provisions to replace the null and void and/or annulled provisions, taking into account as much as possible the purpose and purport of the null and void or annulled provision.
- 2.6 Wherever the term "in writing" is used in these General Terms and Conditions of Purchase, this means: a message by letter or digitally (for example by email).

PART II – General Provisions concerning Agreements

Article 3 Conclusion of the Agreement

- 3.1** The Agreement is concluded if a written irrevocable offer from the Counterparty has been accepted in writing by LVNL, for example by a purchasing assignment or purchase order.
- 3.2** The written acceptance referred to in the previous paragraph shall only constitute acceptance if LVNL is validly represented therefore, by the Board or in accordance with LVNL's then current mandate and power-of-attorney regulations.
- 3.3** An Offer from the Counterparty shall be binding for a period of at least 45 days from the moment it has reached LVNL, unless a different period is stated in the RFQ.
- 3.4** The costs arising from the preparation and submission of an Offer shall be for the Counterparty's account and risk, unless LVNL has indicated in the RFQ that a fee will be paid.
- 3.5** In the case of call-off agreements or (framework) agreements, a (partial) Agreement is concluded each time when the order for a (partial) Performance, within the scope of the call-off agreement or the (framework) agreement, has been accepted by the Counterparty.
- 3.6** If drawings, models, specifications, instructions, inspection regulations or the like provided by LVNL or approved by LVNL must be used in performing the Agreement, these form part of the Agreement.
- 3.7** The Counterparty cannot derive any right from the Agreement to obtain a follow-up order, unless expressly agreed in writing.

Article 4 Duty to Inform and Warn

- 4.1** When entering into and/or performing the Agreement, the Counterparty is obliged to warn LVNL of inaccuracies insofar as the Counterparty knows or should reasonably know of them. The same applies to (financial) consequences and risks which the Counterparty can reasonably understand that LVNL has not foreseen.
- 4.2** Prior to the conclusion of the Agreement, the Counterparty has sufficiently informed itself of LVNL's objectives with regard to the Agreement in order to properly perform the Performance. The Counterparty has sufficiently informed itself of all data concerning LVNL relevant to the Performance, including the organisation, the method of data processing and communication and the installed and/or to be installed items, including (automation) systems and software.
- 4.3** The Parties shall, upon request, provide each other in a timely manner with all information, data, particulars and decisions still required for the execution of the Agreement, including the achievement of the agreed planning, insofar as the information is available and may be provided to the other. This also includes information, data and particulars originating from third parties contracted by LVNL and/or the Counterparty.

Article 5 Warranty

- 5.1** The Counterparty warrants that it and its Performance (and any part thereof):
- (i) at all times comply with applicable national and European laws and regulations and other government requirements, including but not limited to provisions relating to competition, anti-corruption and the environment, and
 - (ii) at all times comply with current requirements of industry safety, quality and environmental standards.
- 5.2** The Counterparty further warrants that it:
- (i) at all times complies with LVNL's applicable safety regulations;
 - (ii) holds the permits required for the performance of the Agreement;
 - (iii) can maintain the Performance for at least five (5) years after the date of acceptance; and
 - (iv) will at all times have sufficient Personnel available for LVNL in order to properly perform the Agreement.
- 5.3** The Counterparty warrants that its Performance (and any part thereof):
- (i) is free from defects;
 - (ii) is unencumbered, free of attachments and other third-party rights;
 - (iii) has the properties promised; and
 - (iv) is fit for the purpose for which it is intended.

Article 6 Inspections

- 6.1** LVNL shall at all times have the right (but not the obligation) to (have) the Performances inspected (interim) in order to determine whether the part/result of the Performance complies with what has been agreed or, more specifically, what has been warranted in accordance with Article 5.1. LVNL shall inform the Counterparty as soon as possible if it wishes to exercise this right. Upon first request, the Counterparty shall render its full cooperation free of charge, including (without limitation) making (measuring) equipment, documentation, information and staff support available. LVNL shall notify the Counterparty of the result of the inspection in writing.
- 6.2** If, on the basis of the (interim) inspection, LVNL determines that (a part of) the Performance inspected does not conform to what has been agreed or, more specifically, what has been warranted, LVNL shall be entitled to require that the Counterparty, within a reasonable term to be set by LVNL, carries out adjustments so that the Performance will still comply, after which a repeated (interim) inspection shall take place.
- 6.3** If the Counterparty does not or not timely cooperate with the implementation of what is ordered in Articles 6.1 and/or 6.2, or if LVNL determines, on the basis of a repeated (interim) inspection, that (a part of) the Performance still does not comply, LVNL shall be entitled to terminate the Agreement without judicial intervention with immediate effect and to procure the required Performance from a third party, or itself take appropriate measures or have appropriate measures taken by a third party, all at the Counterparty's expense. This right is without prejudice to other rights accruing to LVNL under the Agreement, these General Terms and Conditions of Purchase or the law and without any obligation to compensate the Counterparty.
- 6.4** The costs incurred for the (interim) inspection shall in principle be for LVNL's account. If an inspection as referred to in this Article cannot take place at the intended time due to the Counterparty or if an (interim) inspection must be repeated due to the Counterparty, the resulting costs shall be borne by the Counterparty.
- 6.5** The Counterparty cannot rely on the results of previously performed (interim) inspections. Nor does approval or acceptance of (a part of) the Performance release the Counterparty from any warranty obligation or liability arising from these General Terms and Conditions of Purchase, the Agreement, its own offered warranties and/or the law.

Article 7 Tools and Materials

- 7.1** The Counterparty shall itself provide the (auxiliary) materials, tools, machinery, workwear and safety equipment necessary for performing the Agreement.
- 7.2** For the use of LVNL's materials, tools and machinery, the Counterparty must have prior permission from LVNL. Use is at the Counterparty's account and risk, and the Counterparty is fully liable for any damage that may arise from such use.
- 7.3** Materials, drawings, models, instructions, specifications and other tools provided by LVNL, or purchased and/or manufactured by the Counterparty at LVNL's expense, remain LVNL's property or become LVNL's property upon purchase or manufacture, unless otherwise agreed in writing. The Counterparty shall render all cooperation necessary for actions required to effect a transfer of title pursuant to this paragraph.
- 7.4** The Counterparty is obliged to mark the tools referred to in Article 7.3 such that they are recognisable as LVNL's property, to keep them in good condition and to bear the risk thereof as long as the Counterparty acts as holder in respect of these tools.
- 7.5** Changes to the tools referred to as well as the use of these tools for or in connection with any purpose other than the Performance for LVNL are only permitted after prior written consent of LVNL. Approval by LVNL does not affect the Counterparty's (warranty) obligations.

Article 8 Additional Work

- 8.1** If during a Delivery or Service the Counterparty discovers that Additional Work is necessary, the Counterparty shall inform LVNL as soon as possible. The Counterparty shall specify the consequences and indicate to LVNL any additional costs and the expected completion date.
- 8.2** Additional Work as referred to above may only be carried out for LVNL's account after express written consent by LVNL, in accordance with Article 3.2.

Article 9 Social Security and Tax Law Obligations

- 9.1** With regard to its Personnel, the Counterparty is responsible and liable for compliance with obligations arising from the Agreement under tax and social security legislation, including obligations relating to the implementing body for employee insurance schemes and/or the tax authorities. The Counterparty indemnifies LVNL against all claims in this respect.
- 9.2** At LVNL's first request, before and/or after commencement of the performance of the Agreement, the Counterparty is obliged to provide in writing the name and address of the employee insurance implementing body with which the Counterparty is registered, the registration number under which the Counterparty (as evidenced by a valid certificate of registration) is registered with that implementing body, as well as its payroll tax number.
- 9.3** At LVNL's first request, the Counterparty is obliged to submit a statement from the employee insurance implementing body and the tax authorities regarding its payment behaviour, which statement may not be older than three months.
- 9.4** The Counterparty shall to LVNL's satisfaction demonstrate that it, and any third party engaged by it in performing the Agreement, keeps such adequate administration that it can clearly be derived therefrom what amounts are due in respect of wage tax and social security contributions for the persons deployed in performing the Agreement as referred to in Article 9.1.
- 9.5** The Counterparty shall – if legally required or at LVNL's request – work with a blocked (G) account. In case the legislation regarding chain liability and related regulations applies, LVNL shall be entitled to pay the wage tax and social security contributions component of each invoice directly into a G-account.
- 9.6** If LVNL is confronted with an additional tax assessment, such costs will be passed on in full to the Counterparty.

Article 10 Confidentiality

- 10.1** The Counterparty undertakes not to disclose in any way anything that comes to its knowledge in performing the Agreement and whose confidential nature is known or can reasonably be assumed, except insofar as any statutory provision or court judgment obliges the Counterparty to disclose.
- 10.2** Unless with LVNL's prior written consent, the Counterparty shall disclose information available to it only to its Personnel insofar as necessary for the performance of the Agreement. LVNL may attach conditions to the granting of consent.
- 10.3** The Counterparty shall oblige its Personnel to comply with the confidentiality provisions of Articles 10.1 and 10.2.
- 10.4** With regard to the data/information provided by LVNL that is held by the Counterparty, the Counterparty undertakes:
- (i) to take all reasonable measures for safe custody, and
 - (ii) not to retain the data/information in its possession longer than reasonably necessary for the performance of the Agreement and to return such data, including copies, to LVNL within fourteen days after full performance of the Agreement or, after obtaining consent, to destroy them.
- 10.5** As soon as any obligation referred to in the preceding paragraphs is breached, the Counterparty owes LVNL an immediately payable penalty of EUR 50,000 per breach.

Article 11 Intellectual (Property) Rights

- 11.1** LVNL is the rights holder to all intellectual (property) and similar rights that arise from or result from the performance of the Agreement by the Counterparty (or its Personnel), unless otherwise agreed. Insofar as such rights have not already transferred to LVNL by operation of the foregoing clause, such rights shall be transferred by the Counterparty to LVNL forthwith in the required manner, which transfer LVNL hereby accepts in advance. The Counterparty waives, insofar as possible, its moral rights as referred to in Section 25 of the Dutch Copyright Act. This paragraph also applies in relation to all documentation, in whatever form, made available to LVNL in connection with the performance of the Agreement.
- 11.2** Insofar as a further deed is required for the transfer or establishment of rights, the Counterparty shall, at LVNL's first request, draw up and sign such deed. The Counterparty irrevocably and unconditionally authorises LVNL to have the transfer of rights recorded in the relevant registers.
- 11.3** If LVNL deems this necessary, LVNL shall be entitled, using the drawings, texts, models, manuals, samples, tools, calculations, software, dies, moulds and other documents and data carriers manufactured or used by the Counterparty in the delivery, to replace or renew the goods delivered, whether or not with the involvement of third parties.
- 11.4** If there is a difference of opinion between the Parties about the ownership of the (results of) the performed Performances, or the intellectual (property) rights or similar rights vested therein, the starting point is that ownership rests with LVNL until the Counterparty has provided evidence to the contrary.
- 11.5** The Counterparty warrants LVNL the free and undisturbed use of the Performances delivered by or on behalf of the Counterparty to LVNL. The Counterparty indemnifies LVNL against claims by third parties regarding (possible) infringements of intellectual (property) rights and similar rights of third parties, including similar claims relating to know-how, unfair competition, etc.
- 11.6** Without prejudice to LVNL's other rights under the Agreement, these General Terms and Conditions of Purchase or the law, LVNL shall be entitled to terminate the Agreement out of court if and when third parties hold LVNL liable for infringement of intellectual (property) rights or similar rights.

Article 12 Time for Performance

- 12.1** The day(s) and, where applicable, the time(s) stated in the Agreement shall be the moment(s) by which the Performance must have taken place.
- 12.2** The times referred to in the Agreement as meant in the previous paragraph are strict (fatal) deadlines. If these are exceeded, the Counterparty shall be in default by operation of law.
- 12.3** If the Counterparty expects an exceedance of the time for performance, the Counterparty shall, without delay, notify LVNL in writing, stating the reasons and the measures the Counterparty will take to mitigate the delay as much as possible.

Article 13 Attributable Breach / Default

- 13.1** If the Counterparty fails to perform one or more of its obligations, or fails to do so on time or properly, LVNL will give written notice of default, granting the Counterparty a reasonable period to still fulfil its obligations, unless the Counterparty is already in default by operation of law, for example in the event of exceeding a strict deadline as referred to in Article 12. If the Counterparty has not fully, timely and properly fulfilled its obligation(s) after the expiry of the reasonable period granted, it will be in default vis-à-vis LVNL.
- 13.2** LVNL's temporary failure to demand performance of any obligation under the Agreement does not affect the right to still demand performance, unless LVNL has expressly agreed in writing to the non-performance.

Article 14 Force Majeure (Non-Attributable Failure)

- 14.1** The Counterparty can only invoke force majeure vis-à-vis LVNL if the Counterparty has informed LVNL in writing of the imminent/arisen force majeure situation as soon as possible, submitting supporting documents.
- 14.2** Force majeure as referred to above in any case does not include the following circumstances: lack of personnel, strikes, illness of personnel, late delivery and/or unsuitability of materials, raw materials or semi-finished products or services, attributable failure or unlawful acts by third parties engaged by the Counterparty, the Counterparty's own unlawful act towards third parties and/or liquidity or solvency problems on the part of the Counterparty.

Article 15 Liability

- 15.1** If either Party fails to perform its obligations under the Agreement, the other Party may give it notice of default. The notice of default shall be given in writing, granting the defaulting Party a reasonable period to still fulfil its obligations. This period is a strict (fatal) deadline. If performance is not forthcoming within this period, the defaulting Party shall be in default.
- 15.2** The notice of default referred to in the previous paragraph is not required if the period within which the agreed Performance should have been performed has been extended before its expiry. If performance as referred to in the previous paragraph has also not taken place before the end of the extended period, the defaulting Party shall be in default from that moment.
- 15.3** Unless otherwise agreed, the Party that is in attributable breach in performing its obligations shall be liable towards the other Party for the damage suffered or to be suffered by the other Party, provided that liability is limited as follows:
- for assignments with a total value less than or equal to EUR 50,000: EUR 150,000 per event and EUR 300,000 per contract year or part thereof during which the Agreement is in force;
 - for assignments with a total value exceeding EUR 50,000 but less than or equal to EUR 100,000: EUR 300,000 per event and EUR 500,000 per contract year or part thereof during which the Agreement is in force;
 - for assignments with a total value exceeding EUR 100,000 but less than or equal to EUR 150,000: EUR 500,000 per event and EUR 1,000,000 per contract year or part thereof during which the Agreement is in force;
 - for assignments with a total value exceeding EUR 150,000 but less than or equal to EUR 500,000: EUR 1,500,000 per event and EUR 3,000,000 per contract year or part thereof during which the Agreement is in force; and
 - for assignments with a total value exceeding EUR 500,000: EUR 3,000,000 per event and EUR 5,000,000 per contract year or part thereof during which the Agreement is in force.
- Related events shall be considered a single event.
- 15.4** The limitation of liability referred to above shall not apply:
- (i) in the event of claims of third parties (including LVNL Personnel) for compensation for death or personal injury;
 - (ii) in the event of intent or wilful recklessness by the Counterparty or its Personnel; or
 - (iii) in the event of infringement of intellectual property rights as referred to in Article 11.
- 15.5** If, for performing the Performance, the Counterparty uses items owned by LVNL, the Counterparty shall be liable for any damage caused to those items. The liability scale set out in the third paragraph shall apply *mutatis mutandis*.
- 15.6** If, as a result of the use of LVNL's items at the Counterparty for the performance of the Agreement, damage is caused to the Counterparty or to third parties, in any way whatsoever, such damage shall be entirely for the account and risk of the Counterparty.

Article 16 Insurance

- 16.1** The Counterparty has taken out, and shall maintain, adequate and appropriate insurance for possible liability towards LVNL in relation to (the performance of) the Agreement. This includes at least: professional liability (risks arising from professional errors), business/general liability (including liability for damage caused to persons or items owned by LVNL) and loss of and damage to items of LVNL (including by fire and theft). Upon request, the Counterparty shall promptly submit (a certified copy of) the policies or insurance certificates and proof of payment of premiums for such insurance to LVNL.

Article 17 **Assignment of Rights and Obligations**

- 17.1** The Counterparty is not entitled to transfer the rights and obligations under the Agreement to a third party, unless LVNL has given prior written consent.
- 17.2** LVNL shall be entitled to attach conditions to the consent referred to in this Article.

Article 18 **Termination**

- 18.1** Without prejudice to what is otherwise laid down in the Agreement, either Party may terminate the Agreement, in whole or in part, extrajudicially by registered letter if the other Party is in default or if performance is permanently or temporarily impossible.
- 18.2** Without prejudice to its other rights under the Agreement, these General Terms and Conditions of Purchase or the law, including the right to compensation, LVNL shall be entitled to terminate the Agreement, out of court, without prior notice of default being required, by registered letter with immediate effect, if:
- a. the Counterparty is granted (provisional) suspension of payments;
 - b. the Counterparty files for bankruptcy or is declared bankrupt;
 - c. the Counterparty has applied for debt rescheduling under the Dutch Debt Rescheduling (Natural Persons) Act;
 - d. the Counterparty's business is liquidated or taken over;
 - e. the Counterparty is a natural person and dies;
 - f. the Counterparty discontinues its current business;
 - g. a significant part of the Counterparty's assets is attached;
 - h. the shares in or assets of the Counterparty's business are transferred to a third party;
 - i. the Counterparty can otherwise no longer reasonably be deemed capable of fulfilling its obligations under the Agreement;
 - j. any benefit has been or is offered or granted by the Counterparty, or one of its subordinates or representatives, to a person who is part of LVNL's organisation, thereby influencing or potentially influencing that person in making decisions regarding the Counterparty and/or the Agreement;
 - k. facts or circumstances occur or have occurred which indicate or reasonably suggest that the Counterparty, or a third party engaged by it, has entered into the Agreement (also) on criminal grounds or (also) uses it to commit criminal offences or to use advantages of monetary value obtained from criminal offences.
- 18.3** In the event of termination pursuant to Article 18.2, LVNL shall not owe the Counterparty any compensation whatsoever on any ground. All claims that LVNL may have or acquire against the Counterparty in such cases shall be immediately and fully due and payable.

Article 19 **Price**

- 19.1** The Counterparty shall perform the Agreement at the agreed price in euros, excluding VAT.
- 19.2** Prices are fixed during the term of the Agreement and are therefore not subject to tariff changes, indexations, changes in wages, collective labour agreement increases or other cost-increasing factors, unless expressly agreed otherwise in writing between the Parties.
- 19.3** The agreed price includes all costs directly and/or indirectly related to the Performance, such as (without limitation) costs of packaging, taxes, administrative costs, rates for Personnel (including salary costs, taxes and premiums), office costs, costs of hardware and software, travel and accommodation expenses, insurance costs, general costs and profit and risk of the Counterparty.
- 19.4** Settlement of Additional Work (or less work) shall take place at a maximum at the prices stated in the Agreement.
- 19.5** Insofar as prices for Additional Work (or less work) are not included in the Agreement, the Counterparty undertakes to offer only market-conform prices for Additional Work (and less work).

Article 20 Invoicing and Payment

- 20.1** Invoicing by the Counterparty shall take place after the Performance has been carried out, unless otherwise agreed by the Parties in the Agreement.
- 20.2** Invoices shall be sent to the invoice address stated in the Agreement. With regard to invoicing, the Counterparty shall furthermore act in accordance with LVNL's reasonable instructions.
- 20.3** The Counterparty shall state on the invoice in any event:
- (i) all statutory requirements applicable to the invoice;
 - (ii) the number of the Agreement or of the purchasing assignment or the purchase order;
 - (iii) a specification of the Performance;
 - (iv) the total invoice amount, inclusive and exclusive of VAT; and
 - (v) any further requirements as agreed with LVNL.
- 20.4** LVNL shall pay invoices within thirty (30) days of receipt, unless agreed otherwise or the situation described in Articles 20.5 or 20.6 occurs.
- 20.5** If, in LVNL's opinion, there is non-conformity in respect of a Performance, LVNL shall be entitled to suspend its corresponding payment obligation.
- 20.6** If LVNL disputes an invoice in whole or in part or if the invoice has been drawn up or submitted incorrectly in any way, LVNL shall be entitled not to pay the disputed amount. LVNL shall inform the Counterparty as soon as possible of the reasons for the dispute and the parties shall resolve such dispute as quickly as possible.
- 20.7** Suspension due to a claim of non-conformity as referred to in Article 20.5 and/or LVNL's disputing the accuracy of the declaration or amount of the invoice does not entitle the Counterparty to suspend or terminate its work or to terminate the Agreement.
- 20.8** LVNL shall at all times be entitled to have the accuracy of invoices and/or statements sent by the Counterparty verified by an auditor within the meaning of Section 2:393 of the Dutch Civil Code, to be appointed by LVNL. The Counterparty shall, insofar as can reasonably be required of it, provide its cooperation upon LVNL's first request, including by granting access to the books and providing the data required by the auditor. The audit is confidential and does not extend beyond what is required to verify the invoices or statements.
- 20.9** The costs of the audit by the auditor shall be borne by LVNL, unless the investigation reveals irregularities in the invoice or statement, in which case such costs shall be borne by the Counterparty.
- 20.10** Payment by LVNL in no way constitutes a waiver of rights or claims.
- 20.11** LVNL shall at all times be entitled to set off debts owed to the Counterparty, on whatever ground, against claims on the Counterparty.

Article 21 Processing of Personal Data

- 21.1** Insofar as, in the context of the performance of the Agreement, the Counterparty processes personal data for LVNL within the meaning of Article 4(1) of the General Data Protection Regulation (GDPR), the Counterparty shall be regarded as a processor within the meaning of the GDPR. The Counterparty is not entitled at any time to use the personal data made available to it in any way, in whole or in part, other than for the performance of the Agreement, subject to differing statutory obligations.
- 21.2** In the case referred to in Article 21.1, the Counterparty shall take appropriate technical and organisational security measures to protect the personal data against loss or against any form of unlawful processing. Taking into account the state of the art and the costs of implementation, these measures shall ensure an appropriate level of security in view of the risks presented by the processing and the nature of the data to be protected. The measures shall also be aimed at preventing unnecessary collection and further processing of personal data. The Counterparty shall document the measures and provide such documentation to LVNL upon first request.
- 21.3** The Counterparty shall process personal data properly and carefully and in accordance with applicable laws and regulations as well as any LVNL code of conduct applicable thereto. The foregoing shall apply equally to cross-border transmission and/or distribution and/or disclosure of personal data to non-EU countries.
- 21.4** The Counterparty shall render LVNL its full cooperation if a data subject exercises rights within the meaning of Articles 15 through 21 GDPR.
- 21.5** The Counterparty shall inform LVNL, in accordance with Article 33 GDPR, of a personal data breach relating to personal data processed in the context of the Agreement. Such breach shall be reported no later than 24 hours after discovery to LVNL by email to dataprivacy@lvnl.nl.

- 21.6** This Article 21 also constitutes a data processing agreement within the meaning of all applicable personal data protection legislation applicable to the processing of personal data in connection with the activities carried out under the Agreement.

Article 22 Reference in Publications or Advertisements

- 22.1** In publications (including press releases) or advertisements, the Counterparty shall neither implicitly nor explicitly refer to the award of the assignment, nor use LVNL's name as a reference, without LVNL's prior written consent.

Article 23 Exit Clause

- 23.1** If the Agreement ends (prematurely) for any reason, the Counterparty shall, upon LVNL's first request, do what is reasonably necessary to ensure that a new counterparty or LVNL itself can take over the performance of the Agreement without hindrance, or can perform a similar Performance for LVNL. The Counterparty shall also promptly return to LVNL all documents, books, records and other items (including data and information carriers) handed over by LVNL.
- 23.2** Other than in the event of termination of the Agreement pursuant to Articles 18.1 and 18.2, the Counterparty shall perform the services referred to in Article 23.1 at the rates and conditions specified in the Agreement, or failing that, at the rates generally used by the Counterparty and at conditions to be agreed. The services referred to in Article 23.1 shall be performed free of charge if there is an attributable failure by the Counterparty.

PART III – Provisions concerning Goods (Deliveries)

Article 24 Deliveries

- 24.1** Delivery shall take place at the place agreed between the Parties, in accordance with the Incoterms in force at the time of conclusion of the Agreement, DDP (Delivered Duty Paid), as established by the International Chamber of Commerce.
- 24.2** The Counterparty shall, at no additional cost, provide LVNL with all tools and documentation belonging to the Delivery, such as – without limitation – certificates, drawings, manuals, instructions for use, quality and warranty certificates and documents required by laws and regulations, drawn up in the Dutch or English language.
- 24.3** If, as a result of an inspection as referred to in Article 6, LVNL does not accept the goods delivered, the Counterparty shall, at its own expense, take back and collect the goods delivered.
- 24.4** Deliveries shall be deemed approved after explicit notice by LVNL pursuant to Article 6.1 or – if no inspection as referred to in Article 6 has taken place – from the moment of full operational commissioning by LVNL, unless agreed otherwise in writing.
- 24.5** If LVNL requests the Counterparty to postpone the Delivery, the Counterparty shall store, secure and insure the goods, properly packaged and marked as destined for LVNL.
- 24.6** The Counterparty shall promptly inform LVNL of delivery issues and backorders. If Deliveries cannot be delivered within the agreed period, LVNL shall at all times be entitled to order the relevant goods from third parties at the Counterparty's expense.

Article 25 Warranty on Deliveries

- 25.1** The Counterparty warrants that the Delivery is complete and ready for use and grants, unless otherwise agreed, at least the warranty referred to in Article 5 for the Delivery(ies) of two (2) years from the moment the Delivery is approved. If a Delivery is part of a larger whole, such as a technical installation, the warranty period commences upon completion of the larger object.
- 25.2** The warranty period referred to above shall be extended by a period equal to the period(s) during which the goods could not be used, or not fully used, as a result of a defect. New warranty periods equal to those referred to in the previous paragraph shall apply to the goods supplied as a replacement, as well as to those parts on which replaced or repaired parts may have an influence.
- 25.3** The Counterparty warrants that it fully passes on third-party warranties, at least for the period that its own warranties apply.
- 25.4** If, during the warranty period referred to in Articles 25.1 through 25.3, a defect occurs, LVNL shall be entitled either (i) to require that the Counterparty, upon LVNL's first demand, collects the Delivery at its own expense and risk, in which case LVNL shall obtain immediate repayment of the payment made for that Delivery, or (ii) to require that the Counterparty, upon LVNL's first demand, remedies all defects occurring during the warranty period or replaces defective parts thereof, at its own expense and risk, all without prejudice to LVNL's other rights under the Agreement, these General Terms and Conditions of Purchase or the law, including the right to compensation.
- 25.5** For a period of at least five (5) years after Delivery, or another period agreed in the Agreement, the Counterparty must be able to supply parts relating to the goods delivered.

Article 26 Hazardous Substances

- 26.1** The Counterparty shall inform LVNL in writing before or at the latest at the time of conclusion of the Agreement if the goods offered and to be delivered contain hazardous substances that may be released during normal use as well as in the event of malfunctions, repairs, maintenance, opening, emergencies, removal, storage, dumping, moving, disposal or destruction of the goods concerned.
- 26.2** In such case, the Counterparty shall include with delivery clear instructions with preventive measures on how to prevent release. The Counterparty shall also state the measures to be taken to protect LVNL's staff and employees in the event of release of such substances.

Article 27 Packaging and Transport

- 27.1** The Counterparty shall ensure proper packaging and such securing and transport of the goods that they reach the delivery address in good condition and unloading there can be carried out safely. The Counterparty is responsible for compliance with (inter)national regulations regarding packaging and transport by itself and by the carriers it has contracted. The Counterparty shall ensure that goods are not packaged in packaging/materials which, assessed according to the state of science at the time of delivery, are environmentally harmful or are suspected to be so.
- 27.2** The Counterparty shall mark the packaging of the goods with LVNL's purchase order number and further markings as indicated by LVNL.
- 27.3** If the Counterparty does not properly package and/or mark the goods, LVNL shall be entitled to refuse delivery of the goods. In that case, the goods shall be deemed not to have been delivered.
- 27.4** All packaging, with the exception of returnable packaging, shall become LVNL's property upon delivery. If LVNL so wishes, the Counterparty shall take back packaging and waste materials free of charge.
- 27.5** Returnable packaging must be clearly marked as such by the Counterparty. Return shipment of returnable packaging shall be at the Counterparty's account and risk to a destination indicated by it.

Article 28 Transfer of Risk and Title

- 28.1** Unless otherwise agreed in writing, the risk and title to goods shall pass to LVNL at the moment the Counterparty makes the goods available to LVNL at the place of delivery referred to in Article 24. In the event of refusal of the goods by LVNL or if the goods must be taken back by the Counterparty, title and risk of the goods shall again be for the account of the Counterparty as soon as the Counterparty collects or receives the goods again.
- 28.2** If LVNL makes part payments in the context of the Agreement in advance of the entire Delivery, the Counterparty shall, as soon as the separate item is present in the Counterparty's business, already transfer title to each separate item (including components and materials) to LVNL, which transfer LVNL hereby accepts in advance. The same applies in the case of manufacture, to which the Counterparty, insofar as part payments relate to those items or manufacture, agrees.
- 28.3** The Counterparty shall mark LVNL's property as such and keep it safely until the moment of delivery to LVNL. The Counterparty shall not grant third parties access to such goods or exhibit them at exhibitions or dispose of them or make them available to third parties without LVNL's prior written consent.

PART IV – Provisions concerning Services

Article 29 Performance of Services

- 29.1** The Counterparty shall perform the Services within the period, at the place and in accordance with what is set out in the Agreement.
- 29.2** The Counterparty is responsible for performing the Services by itself and/or its Personnel. The Counterparty shall ensure that all components, auxiliary materials, accessories, tools, spare parts necessary to achieve the objective indicated by LVNL are available.
- 29.3** Actual performance of the Services does not imply that LVNL approves the Services as such. LVNL reserves the right to inspect the Services to be performed in accordance with Article 7.
- 29.4** If applicable, before the Counterparty commences performing Services, the Counterparty shall agree with LVNL which part of LVNL's sites and buildings may be used in connection with the performance. It shall also be agreed which facilities of LVNL the Counterparty may use.
- 29.5** The Counterparty must interrupt the performance of Services if, in LVNL's opinion, its business conditions make this necessary. The costs involved in the interruption, insofar as demonstrably incurred by the Counterparty and only to the extent they are reasonable, shall be borne by LVNL.
- 29.6** If the performance of the Service takes place (partly) on LVNL's site(s) or those of third parties, the Counterparty shall familiarise itself with, and comply with, the safety regulations applicable there. This also includes holding the necessary permits and complying with LVNL's or such third parties' house rules.
- 29.7** The Counterparty shall promptly inform LVNL of delays in the performance of the Services. If Services cannot be performed by the Counterparty within the agreed period, LVNL shall at all times be entitled to have the Services performed by third parties at the Counterparty's expense.
- 29.8** If, in the context of the Agreement for the performance of a Service, LVNL makes part payments in advance of the entire performance of the Service and as a result of the (partial) performance of that Service rights arise, in whatever form, including (intellectual) property rights, the Counterparty shall transfer the ownership of those rights to LVNL, which transfer is hereby accepted by LVNL.

Article 30 Personnel

- 30.1** The Counterparty is obliged to deploy sufficient, reliable and qualified (in terms of expertise and experience) Personnel for the performance of Services.
- 30.2** The Counterparty shall ensure that all Personnel engaged by it are entitled to perform the Services.
- 30.3** The Counterparty's Personnel must comply, both in person and in their capacity as employees of the Counterparty, with applicable (statutory) safety requirements, applicable security procedures and LVNL's house rules, and must be able to identify themselves at all times.
- 30.4** LVNL may subject the Personnel engaged by the Counterparty to a security screening or request a certificate of conduct. If, as a result of the security screening, a certificate of no objection/certificate of conduct is refused for an employee, or if the Personnel do not wish to cooperate with such screening or the provision of a certificate of conduct, LVNL shall be entitled to deny such Personnel access to LVNL buildings and sites, without being liable to the Counterparty for damages.

Article 31 Replacement of Personnel

- 31.1** Replacement of Personnel may only take place by the Counterparty in exceptional cases.
- 31.2** The Counterparty may not replace Personnel temporarily or permanently without LVNL's prior consent. LVNL shall not unreasonably withhold its consent and may attach conditions to such consent. The rates applicable to the original Personnel may not be increased in the event of replacement.
- 31.3** If LVNL requires replacement of Personnel because it considers this necessary or desirable in the interest of proper performance of the Agreement, the Counterparty shall comply. A rate shall be charged that is no higher than the rate laid down in the Agreement for the Personnel being replaced.
- 31.4** In the event of replacement of Personnel, the Counterparty shall make available Personnel who are at least equivalent in terms of expertise, training and experience to the Personnel to be replaced, or who comply with what the Parties have agreed regarding such Personnel.

Article 32 Subcontracting

- 32.1** In performing the Agreement, the Counterparty shall only use the services of third parties after LVNL's consent. LVNL shall not unreasonably withhold such consent. LVNL may attach conditions to the consent.
- 32.2** The consent referred to in the first paragraph does not affect the Counterparty's obligations and responsibilities under Article 9.

PART V – Final Provisions

Article 33 Governing Law and Disputes

- 33.1** The Agreement, of which these General Terms and Conditions of Purchase form part, shall be governed exclusively by Dutch law.
- 33.2** The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG), Vienna, 11 April 1980, is expressly excluded.
- 33.3** All disputes between the Parties in connection with the Agreement or these General Terms and Conditions of Purchase shall, in first instance, be submitted exclusively to the competent court within the District of Noord-Holland, the Netherlands.

Article 34 Surviving Provisions

- 34.1** Termination of the Agreement shall not release the Parties from obligations that by their nature continue. These obligations include at least: warranties (Article 5), confidentiality (Article 10), indemnity for infringement of intellectual property rights (Article 11), liability (Article 15), exit clause (Article 23) and governing law and disputes (Article 33).

Article 35 Miscellaneous

- 35.1** These General Terms and Conditions of Purchase were originally drawn up in the Dutch language. In case of ambiguity or differences in interpretation and/or explanation of these General Terms and Conditions of Purchase, the Dutch text shall at all times prevail.
- 35.2** Headings above the Articles are intended solely to improve the readability of these General Terms and Conditions of Purchase and no rights can be derived therefrom.