



General Purchase Conditions Nijhuis Water Technology B.V.

Article 1 Applicability

- 1.1 These General Purchase Conditions (hereinafter referred to as: “General Purchase Conditions”) are applicable to the offer, purchase and delivery of all goods and/or services, including the performance of contracts for services, contracts for work and the hiring of temporary workers (the goods and services hereinafter both separately and jointly referred to as: “Products”) whereby Products are purchased by or on behalf of Nijhuis Water Technology B.V., with its registered office in Dinxperlo and place of business in Doetinchem at Innovatieweg 4 (7007 CD), (hereinafter referred to as: “Nijhuis”), from the supplier (hereinafter referred to as: “Supplier”), as well as to all similar transactions and agreements between Nijhuis and Supplier. Nijhuis explicitly dismisses the applicability of (any) general (sales) conditions of Supplier.
- 1.2 These General Purchase Conditions may only be varied, if Nijhuis agrees with such variant in writing. In that case, the variant agreed in writing is only applicable to the specific agreement for which the variant was agreed.

Article 2 Formation of Agreements

- 2.1 An offer made by the Supplier, in whatever form, is considered to be an irrevocable offer with regard to the prices, quantities, delivery times and other essential parts of the offer. Any costs related to submitting an offer will not be reimbursed by Nijhuis.
- 2.2 An agreement between Nijhuis and Supplier (hereinafter referred to as: “Agreement”) is deemed to have been concluded if and insofar as an Agreement has been confirmed in writing by Nijhuis to the Supplier, under the conditions set by Nijhuis in writing (hereinafter referred to as: “Nijhuis Confirmation”). Nijhuis reserves the right to cancel the purchase made or order placed if the Supplier has not confirmed this within two weeks after Nijhuis Confirmation by means of an order confirmation.
- 2.3 The quantity and/or quality of the Products to be delivered may be changed at the request of Nijhuis. If, in the opinion of Supplier, these changes have consequences for the agreed price or delivery time, Supplier will inform Nijhuis of this as soon as possible in writing, before taking action on the change. The price and/or delivery time changed by Supplier will only apply once accepted by Nijhuis in writing.
- 2.4 Nijhuis may terminate the Agreement at any time by means of written notice to the Supplier. In that case, Nijhuis will reimburse the costs incurred by Supplier prior to the termination, which costs will be determined in accordance with generally accepted accounting principles, together with a reasonable compensation for overhead and profits from activities already carried out.
- 2.5 If a legal act is to be done in written form, this requirement will also have been fulfilled if the act is done by electronic means. An automatically generated confirmation of receipt or read confirmation is sufficient to establish the receipt of a statement. The electronic system of Nijhuis will serve as sole proof of the content and time of the legal act.

Article 3 Price and Payment

- 3.1 The agreed price is a fixed price. All prices stated by Supplier are exclusive of turnover tax and inclusive of all costs, including the costs of (applying for, obtaining of and maintaining of) exemptions and permits, duties, levies and other taxes in connection with compliance with the obligations of Supplier.
- 3.2 Supplier will not invoice the amounts due by Nijhuis until the date of delivery of Products or, if this date is later, the date on which the performance has been accepted by Nijhuis.
- 3.3 Invoices must comply with the Dutch Turnover Tax Act (Wet op de Omzetbelasting) as applicable at the time of the Agreement. Supplier must state the contract numbers of Nijhuis and Supplier, relating to the Products, on the dated and numbered invoices.
- 3.4 Upon complete approval of the invoice, Nijhuis will pay the invoiced amount within sixty days of receipt of the invoice. Payment does not constitute acceptance of the delivered performance and does not discharge Supplier from any obligation. Nijhuis is always authorized to set off amounts it owes to Supplier from all that Nijhuis may claim or will be able to claim at any time from Supplier whether due and payable or not.

Article 4 Quality and Properties

- 4.1 Supplier guarantees that Products:
- (a) are in accordance with all specifications, drawings, calculations and other requirements stated in the Agreement and other documents supplied by Nijhuis, as well as the requirement that Products possess the qualities that Nijhuis may reasonably expect from them;
 - (b) are of good quality, new, without defects in design, construction, manufacture, assembly and materials, and that these comply with the highest demands of the state of the art at the time of delivery;
 - (c) are complete and suitable for the purpose for which they have been intended;
 - (d) do not infringe on any right of industrial or intellectual property;
 - (e) comply with the relevant applicable legal (safety) requirements and government regulations.
- 4.2 Insofar as Products are delivered in a place outside of the business premises and/or other sites of Supplier, the legal (safety) requirements and government regulations applicable to that place as well as the regulations declared applicable by Nijhuis will be complied with by Supplier. If technical, safety, quality and/or other regulations are referred to in the Agreement and/or in the accompanying appendices, but not attached to the Agreement, Supplier will be deemed to be aware of these, unless Supplier immediately notifies Nijhuis of the contrary in writing.
- 4.3 The costs of inspection and re-inspection following the remedy of defects will be paid by Supplier.
- 4.4 Without prejudice to the provisions in 4.1, Supplier is obliged to do everything possible to warrant the quality of the Products. Supplier shall be able to prove this in writing.

Article 5 Delivery and Delivery Period

- 5.1 Supplier supplies the Products at the time laid down in the Agreement, unless Nijhuis has approved of another time of delivery in writing.
- 5.2 Unless otherwise agreed, all deliveries will be DDP Doetinchem in accordance with the latest version of the Incoterms.
- 5.3 The Products shall be made available at Nijhuis on the agreed date.
- 5.4 The delivery date laid down in the Agreement is final and applies to the entire delivery. Without prejudice to the other rights of Nijhuis, Supplier will forfeit to Nijhuis an immediately due and payable fine which is not subject to mitigation of 0.5% of the agreed total price for each calendar day that the stipulated delivery date is exceeded.
- 5.5 The obligation to deliver the Products has been fulfilled when Supplier has transferred to Nijhuis all things named in the Agreement including accompanying documents, such as certificates, maintenance instructions and manuals, etc.
- 5.6 The mode of transport will be determined with proper care by Supplier and at its own risk.
- 5.7 Supplier will take out insurance for the transport.
- 5.8 Damaged Products may be repaired, if Nijhuis accepts this and confirms this in writing.
- 5.9 Supplier shall dispose of all redundant materials and waste which come into being at building sites or are left as a consequence of the delivery of the Products.
- 5.10 Along with each delivery of Products, Supplier shall deliver all drawings and material certificates and make these documents available to Nijhuis electronically, without password

Article 6 Defects

- 6.1 If it appears that the Products do not comply with the provisions in Article 4 of these General Purchase Conditions, Nijhuis will inform Supplier of this within a reasonable period after discovery of the defect. This period is not limited by the fact that the Products have been accepted or put into use by Nijhuis. After the expiry of the guarantee period Nijhuis is still authorized to inform Supplier within a reasonable period after the discovery of a defect. After repair or replacement, the guarantee period will commence once again. The burden of proof that Nijhuis did not act in accordance with the guarantee conditions rests on Supplier.
- 6.2 In case of a defect, as referred to in Article 6.1, Nijhuis may require Supplier to replace or repair the Products within two weeks at its own expense. Nijhuis may also choose to set aside the Agreement and claim repayment of the purchase price and compensation from the Supplier.
- 6.3 If Supplier fails to comply with its obligations referred to in this Article, Supplier will be in default by operation of law and Nijhuis has the right, without further demands or notice of default, to replace or repair the Products or arrange for them to be replaced or repaired at the expense of Supplier.

Article 7 Transfer of Ownership and Risk

- 7.1 The Products are at the risk of Supplier until these have arrived at the agreed place of delivery and have been accepted by Nijhuis in writing. The ownership of the Products is transferred to Nijhuis at the time of delivery or, if earlier, at the time of payment. Supplier guarantees that the full and unencumbered ownership of the Products will be transferred.
- 7.2 The Products that have been handed over or sent by Nijhuis to Supplier for repairs or processing are at the risk of Supplier following receipt. Supplier will take out adequate insurance for these risks, including the risk during transport of the Products, at its own expense.

Article 8 Aids, Drawings, etc.

- 8.1 All models, stamps, drawings, lithographs, calculations, specifications and all other aids/data that Nijhuis has made available to Supplier in connection with the Agreement or that Supplier has made or has had made in connection with the Agreement remain or will become property of Nijhuis and will be clearly marked as such.
- 8.2 At first request of Nijhuis, Supplier shall return the things referred to in the previous paragraph to Nijhuis.

Article 9 Force majeure

- 9.1 In case of force majeure, meaning a situation or incident that may be interpreted as such according to general legal standards, Supplier will immediately inform Nijhuis about the nature and expected duration of the force majeure. If a period of force majeure continues for longer than five business days beyond the agreed delivery date, Nijhuis will be entitled to set aside the Agreement without this giving rise to any liability or further obligations on the part of Nijhuis. In that case, Supplier shall reasonably compensate Nijhuis for the damage suffered.

Article 10 Guarantee

- 10.1 The Supplier guarantees the soundness and quality of the Products until 24 months after the start-up of the installation with a maximum of 36 months after delivery.
- 10.2 The guarantee also includes any possible extra (travel, accommodation, special transport and/or test) costs. If Supplier permits Nijhuis to carry out repairs, the guarantee will remain in full force.

Article 11 Infringement and Confidentiality

- 11.1 Supplier shall always keep strictly secret all confidential information and all other know-how, in the broadest sense of the word, obtained from Nijhuis. Supplier shall only provide this information and know-how to employees and any possible third parties, if and insofar as that is necessary for the performance of the Agreement concerned. This provision of information and know-how is done under the condition that these employees and third parties declare beforehand in writing to be bound by the same secrecy. This obligation of confidentiality will continue in full until after the performance or termination of the Agreement until the information or know-how concerned has become generally and publicly known, without this being attributable to Supplier or an employee or third party engaged by it. At first request of Nijhuis, Supplier is obligated to provide Nijhuis with all drawings, specifications, required materials, calculations and other documents or other data carriers containing confidential information or know-how made or used by Nijhuis or Supplier in connection with the performance of the Agreement without withholding any copies, as well as confirming this to Nijhuis in writing.
- 11.2 Nijhuis retains all intellectual property rights to all provided documentation, drawings, software, etc. In case of any possible infringements of these rights, Supplier is obligated to compensate Nijhuis for all resulting damage and consequential damage.
- 11.3 Supplier will fully indemnify Nijhuis for all costs, damage and interest that are the consequence of an infringement of one or more patents, licences, copyrights, registered drawings or designs, trademarks or trade names.

Article 12 Inspection and Tests

- 12.1 Nijhuis is entitled to inspect the Products and attend tests on the Products or parts thereof carried out during manufacture, either at the site of Supplier or of the subcontractors of Supplier. The costs for Nijhuis in connection with repeated inspections or attendance of tests as a consequence of noncompliance with the Agreement by Supplier will be paid for in full by Supplier. All approvals given by Nijhuis will be granted subject to the right to reject Products or parts thereof which are not in accordance with the Agreement.

Article 13 Expediting

- 13.1 If Nijhuis wishes to take measures to further the progress of any or all aspects associated with the performance of the Agreement, Nijhuis shall have access to the accounting records of Supplier and that of its subcontractors related to the progress of the Agreement. For that purpose, Nijhuis will receive all necessary assistance.

Article 14 Transfer

- 14.1 Supplier is not permitted to transfer any rights or obligations under the Agreement to third parties without the written permission of Nijhuis.

Article 15 Liability and Insurance

- 15.1 Supplier is liable for and will indemnify Nijhuis against all costs and damage that are directly or indirectly the consequence of non-performance, failure to perform on time or improper performance of any obligation under the Agreement by Supplier (including its subordinates and auxiliary persons) or of the breach of any rule or statutory provision by the Supplier. The duty of Supplier to indemnify Nijhuis also applies to actions brought against Nijhuis by third parties including the costs of opposing the claims made by third parties.
- 15.2 Supplier is obligated to take out and maintain sufficient insurance in respect of its liability towards Nijhuis and towards third parties.

Article 16 Setting aside

- 16.1 Without prejudice to further rights accruing to Nijhuis, such as the right of termination as referred to in Article 2.4, Nijhuis has the right to set aside the Agreement in full or in part without further notice of default by means of a written statement if:
- (a) Supplier fails to comply with one or more obligations under the agreement;
 - (b) Supplier is declared insolvent, has applied for a moratorium, has effected a composition with its creditors, has closed down or wound up its business, or an attachment has been levied on a considerable part of its assets;
 - (c) a change in control of the business of Supplier takes place that is relevant in the opinion of Nijhuis.
- 16.2 In case of termination, the risk of goods already delivered rests with Supplier. The goods will then be at the disposal of Supplier and must be collected by it. Supplier shall immediately reimburse the amounts already paid by Nijhuis in respect of the Agreement set aside.

Article 17 Applicable law and Competent court

- 17.1 The relationship between Nijhuis and Supplier, including the employees and third parties engaged by Supplier, is exclusively governed by the laws of the Netherlands. The applicability of the Vienna Sales Convention (CISG) is excluded. Disputes will be exclusively submitted to the competent court in the place of business of Nijhuis, without prejudice to the right of appeal against a decision of the competent court.

The General Purchase Conditions have been composed in the Dutch language. This is an English translation. In the event of disputes over interpretation, the Dutch text will prevail over the English translation.