

# GD Animal Health General Purchasing Conditions

Valid as of 1 July 2018

## 1 Definitions

The following terms are defined as follows:

**Purchasing Conditions:** these General Purchasing Conditions of GD Animal Health, filed with the District Court of Overijssel under number 18-19.

**GD Animal Health:** Gezondheidsdienst voor Dieren B.V., Chamber of Commerce number 08117636, with its registered office in Deventer.

**Service/Provision of Services:** the work to be performed and/or the employees to be outsourced, arising from the Agreement concluded between the Parties.

**Goods:** the movable goods to be provided by Supplier to GD Animal Health pursuant to the Agreement.

**Delivery:** the placing of one or more Goods into the possession or under the authority of GD Animal Health and/or any installation and assembly of these Goods, or the completion of the Provision of Services, under any title whatsoever.

**Supplier:** the natural or legal entity entering into an Agreement with GD Animal Health for the Delivery of Goods and/or the Provision of Services.

**Agreement:** the written agreements concluded between the Parties as specified in a document signed by both Parties as well as the ensuing assignments based on which the Supplier provides Services, hires personnel and/or supplies Goods to GD Animal Health.

**Party:** GD Animal Health or the Supplier individually.

**Parties:** GD Animal Health and the Supplier collectively.

## 2 Applicability and scope

- 2.1 The Purchasing Conditions form an integral part of the Agreement between GD Animal Health and the Supplier.
- 2.2 The Purchasing Conditions are applicable to all Goods, Services and/or hiring of personnel commissioned by GD Animal Health from the Supplier, irrespective of the actual conclusion of an Agreement.
- 2.3 Deviations from the Purchasing Conditions can only be agreed between the Parties in writing.
- 2.4 The Purchasing Conditions apply in full to all Services and/or the Delivery of Goods to GD Animal Health, unless expressly agreed otherwise in writing in the Agreement.
- 2.5 Applicability of the Supplier's terms and conditions is hereby expressly excluded.
- 2.6 In the event of inconsistencies between the provisions of the Purchasing Conditions and the Agreement, the provisions of the Agreement shall prevail.

## 3. Price, invoicing and payment

- 3.1 Unless a subsequent calculation has been expressly agreed in writing in the Agreement between the Parties, the agreed price is a fixed price or an hourly rate in euros, excluding VAT and including all costs incurred in the implementation of the Agreement.
- 3.2 Payment of the Goods and/or Services delivered and accepted shall take place based on a fully specified invoice.
- 3.3 The payment term of invoices is within 30 days of the invoice date.
- 3.4 Payment by GD Animal Health does not imply any waiver whatsoever of any right to revoke the implementation of the Agreement.

## 4 Obligations of the Supplier:

- 4.1 The Supplier guarantees that the Services to be provided and/or the Goods supplied by or on its behalf shall comply fully and without exception with the obligations, requirements and guarantees laid down in the Purchasing Conditions and the Agreement, as well as the generally accepted practice, and are free of any defects.
- 4.2 The Supplier is only authorised to outsource the implementation of the Agreement, in full or in part, to third parties with the prior written consent of GD Animal Health, which GD Animal Health will not withhold on unreasonable grounds and to which GD Animal Health may attach further conditions.
- 4.3 The Supplier guarantees that the Services to be provided and/or Goods to be supplied by or on its behalf shall at all times be performed by qualified personnel in a professional manner

and shall meet the requirements set in the context of normal business operations.

- 4.4 The Supplier guarantees that the Provision of Services and/or the Goods to be supplied comply with the laws and regulations applicable at the time of delivery.
- 4.5 The Supplier shall provide GD Animal Health with all information concerning the Agreement that may be relevant to GD Animal Health. The information provided by the Supplier to GD Animal Health must at all times be accurate and complete.
- 4.6 The delivery dates and/or terms in the Agreement shall be strict and final. If circumstances arise leading to the expectation that an agreed delivery date or period will be exceeded, the Supplier shall notify GD Animal Health thereof without delay.

## 5 Delivery of Goods

- 5.1 Delivery of Goods by the Supplier shall be 'Delivery Duty Paid' Incoterms® 2010. The Supplier will deliver the Goods to the address indicated by GD Animal Health, at the Supplier's own account and risk.
- 5.2 The risk and ownership of the Goods shall transfer to GD Animal Health after delivery of the Goods by the Supplier and acceptance by GD Animal Health. If the Agreement is terminated, the risk in respect of the Goods will be transferred back to the Supplier from the moment the Agreement is terminated.
- 5.3 If the Goods supplied are fully or partially rejected by GD Animal Health, the Supplier cannot lay any claims on GD Animal Health if the Goods supplied were damaged or consumed as a result of the inspection.
- 5.4 The Supplier is obliged to provide to GD Animal Health upon first request, but at the latest on Delivery of the Goods, all associated auxiliary resources and also the associated documentation such as drawings, quality certificates, inspection certificates, guarantee certificates and classification certificates, service manuals and instruction manuals.
- 5.5 A packing list must accompany the Goods to be supplied. The packing list must state, insofar as this is known, the order number of GD Animal Health, as well as the item numbers, quantities and description of the Goods.

## 6 Hiring of personnel

- 6.1 Upon GD Animal Health's first request, the Supplier must provide GD Animal Health with a written specification of the personal details and terms of employment as well as any (interim) changes that are important in relation to the performance of the work.
- 6.2 The Supplier guarantees that the outsourced employees are suitable in terms of the level of education, expertise and experience to properly execute the activities as described in the Agreement and/or request.
- 6.3 The Supplier guarantees that the income tax, national insurance contributions and/or employee insurance premiums will be withheld in respect of the outsourced employees and will be paid in time and in full to the competent authorities.
- 6.4 All obligations with regard to the personnel outsourced by the Supplier, both with respect to compliance with the current collective labour agreements and with those under the tax and social security legislation, including any penalties and liabilities, are borne by the Supplier.

- 6.5 The Supplier shall ensure that its personnel as well as any outsourced personnel will observe correctly and fully the security procedures and house regulations applied by GD Animal Health.
- 6.6 Upon GD Animal Health's first request, the Supplier shall make use of a timesheet or another means for time registration recommended by GD Animal Health in order to determine the hours worked.
- 6.7 Attendance of the outsourced personnel at GD Animal Health will be recorded by means of the absence and attendance registration customary at GD Animal Health. The rules that apply to GD Animal Health's own personnel with regard to absence and attendance registration, shall also apply to the personnel outsourced to GD Animal Health.
- 6.8 Except for the situation as described in article 6.10, it is expressly not the intention to establish an employment contract, nor a fictitious employment relationship between GD Animal Health and the employee outsourced by the Supplier.
- 6.9 The Supplier shall not replace the employee outsourced to GD Animal Health by another employee, without the prior written consent of GD Animal Health.
- 6.10 GD Animal Health is entitled to employ an employee who has been outsourced free of charge after a hiring period of 1,000 hours. The Supplier hereby guarantees that the outsourced employee is not bound by a non-solicitation clause that prevents the employee in question from working (directly) for GD Animal Health or to enter into an employment contract with GD Animal Health.

## 7 Intellectual Property

- 7.1 Drawings, materials, data, designs, trade secrets, ideas, business plans, specifications, manuals, samples, software, know-how as well as business data and related matters provided by GD Animal Health, remain the property of GD Animal Health at all times. The Supplier shall treat this information and information designated as such by GD Animal Health as confidential and not disclose it to third parties without the prior written consent of GD Animal Health.
- 7.2 All drawings, specifications, manuals, samples, software and such which the Supplier creates in the context of this Agreement become the unrestricted property of GD Animal Health in advance. The Supplier authorises GD Animal Health to transfer intellectual property by a legal instrument, insofar as this is required to confirm the transfer of intellectual property rights. The Supplier shall keep secret such information, matters and services that are created and not disclose these to third parties without the prior written consent of GD Animal Health.
- 7.3 The obligations pursuant to this article shall continue to apply in full after termination of the Agreement.

## 8 Publicity

- 8.1 The Parties shall not use each other's names and logos in advertisements, publications or otherwise without prior written consent.

## 9 Confidentiality

- 9.1 The Supplier shall not provide any information of a confidential nature to third parties, without the prior written consent of GD Animal Health. Information shall, in any event, be considered

confidential if it contains information about materials, data, designs, know-how, trade secrets, ideas and business plans or business information. Information shall also be considered as confidential if it is designated as such by GD Animal Health.

- 9.2** The Supplier shall not use, copy or store any information of a confidential nature for any purpose other than that for which it was provided to the Supplier.
- 9.3** The Supplier shall oblige its personnel to observe confidentiality and guarantees that these persons will comply with the obligation of confidentiality.
- 9.4** The obligations pursuant to this article shall continue to apply in full after termination of the Agreement.

## **10 Execution of work**

- 10.1** GD Animal Health may, at its own expense and at any time, commission an external independent expert to investigate compliance with the agreements by the Supplier. The Supplier agrees to cooperate with such an investigation.
- 10.2** GD Animal Health may deny access to its sites and/or buildings or request the Supplier to remove persons from its sites and/or buildings if such persons in the opinion of GD Animal Health:
- are not skilled and/or competent and/or;
  - are guilty of misconduct to such an extent that they cannot be allowed to remain at the sites and/or in buildings; and/or;
  - act in violation of an obligation under the Agreement and/or;
  - do not comply with the safety instructions of GD Animal Health.

In all cases as described above, without delay, the Supplier shall arrange for a suitable replacement without additional costs or increase of the rate.

- 10.3** The Supplier must confer in advance with GD Animal Health about the execution of work if it is expected to cause disruption for GD Animal Health.
- 10.4** When the operating conditions of GD Animal Health so require, the Supplier must interrupt or stop its work upon GD Animal Health's first request. Any Goods and/or Services already delivered by the Supplier to GD Animal Health shall in that case be paid pro rata by GD Animal Health.

## **11 Amendments, additional and less work**

- 11.1** GD Animal Health is entitled to unilaterally adjust the scope of the Provision of Services. If the Supplier is of the opinion that the adjustment affects the price and/or delivery time agreed, the Supplier shall convey this forthwith in writing to GD Animal Health and in the event of additional work, issue a written quotation with regard to the consequently changed price and/or delivery time.
- 11.2** The Supplier shall not perform additional work before GD Animal Health has issued a written order to do so. Additional work shall under no circumstances include additional work which the Supplier could or should have foreseen when concluding the Agreement in order to be able to provide the agreed performance or functionalities, or if these activities are the result of a shortcoming by the Supplier in the performance of its obligations.

## **12 Termination and cancellation**

- 12.1** GD Animal Health is entitled to terminate the Agreement, in

full or in part, without liability to pay any compensation, if:

- the Supplier has been granted a (provisional) suspension of payment or if an application to that effect has been submitted;
  - the Supplier has been declared bankrupt, or if a bankruptcy petition has been filed;
  - the company of the Supplier is closed down, or the company is dissolved or liquidated;
  - an attachment is placed on (part of) the company property or Goods of the Supplier intended for the implementation of the Agreement.
  - there is a transfer of the company of the Supplier or a change in the majority control of the company.
- 12.2** All claims that GD Animal Health may have at the time of a termination or thereafter will become immediately due and payable in full in the event of a termination.

## **13 Auxiliary materials**

- 13.1** The Supplier is responsible for all the auxiliary materials necessary to provide the Services and/or to deliver the Goods.
- 13.2** If the Supplier makes use of auxiliary materials belonging to GD Animal Health with the latter's consent, such use is for the Supplier's risk and the Supplier is fully liable for any damage arising from such use. Once the Supplier has stopped using the auxiliary materials it must return these to GD Animal Health immediately in the condition in which the Supplier received them from GD Animal Health.
- 13.3** Storage of goods by the Supplier at sites and/or in buildings of GD Animal Health is only permitted with the prior written consent of GD Animal Health.

## **14 Non-compliance**

- 14.1** If the Supplier fails to comply with or does not meet in time the requirements or other obligations arising from the Agreement and/or in the event of a defect in Goods or Services delivered by the Supplier, the Supplier shall be in default, without further notice of default.
- 14.2** Without prejudice to the provisions of article 12 paragraph 1, GD Animal Health is entitled:
- to give the Supplier the opportunity to still fulfil its obligations within a period of time to be determined by GD Animal Health under simultaneous payment by the Supplier of the compensation that may meanwhile have become due, or
  - to terminate the Agreement, fully or in part, by means of a written statement, without prejudice to the right of GD Animal Health to compensation of costs and damage from the Supplier.

## **15 Liability**

- 15.1** The Supplier is liable for all damage at GD Animal Health and/or third parties, ensuing as a consequence of the fulfilment of the obligations arising from the Agreement.
- 15.2** The Supplier indemnifies GD Animal Health against claims by third parties for compensation of damage and/or costs as a result of shortcomings by the Supplier in the fulfilment of the Agreement and/or the failure to comply (in time) with the applicable legislation.
- 15.3** GD Animal Health is entitled to require the Supplier to take out insurance to cover the risks. The Supplier shall provide

conclusive evidence of the insurance coverage upon first request of GD Animal Health.

- 15.4** The liability of GD Animal Health shall be restricted to direct damage and shall not exceed the amounts paid by GD Animal Health to the Supplier in relation to the Order from which the damage ensues.
- 15.5** GD Animal Health shall never be liable for indirect damage, including consequential damage, trading loss, loss of profits, missed sales, incurred losses, missed savings, damage due to business interruption.

## **16 Force majeure**

- 16.1** Neither Party shall be bound to meet any obligation if prevented from doing so as a consequence of force majeure.
- 16.2** Force majeure on the part of GD Animal Health shall in any case include: every circumstance outside the will and control of GD Animal Health as a result of which fulfilment of its obligations towards the Supplier cannot be reasonably demanded from GD Animal Health, such as for instance: lack of personnel, a strike, delayed delivery or unsuitability of materials, veterinary diseases, government measures, breakdown or inaccessibility of telecommunication and transport facilities and the non-fulfilment of obligations by suppliers of GD Animal Health.

## **17 Equipment requirements**

- 17.1** All equipment used or delivered by the Supplier in the context of the Agreement, must comply with the current CE hallmarks and NEN standards.

## **18 Prohibition on transfer**

- 18.1** Without the written consent of GD Animal Health, the Supplier is not permitted to transfer, in whole or in part, any rights and obligations arising from the Agreement to third parties.

## **19 Declaration of Integrity**

- 19.1** The Supplier declares that he has not and will not offer personnel of GD Animal Health any advantage in order to obtain an Agreement. The Supplier shall not do this either to persuade personnel of GD Animal Health to perform or omit any action in the context of the Agreement.

## **20 Final provisions**

- 20.1** Dutch law applies exclusively to this Agreement. The Convention on the International Sale of Goods 1980 (CISG/ Vienna Sales Convention) is expressly excluded.
- 20.2** All disputes arising from the Agreement and the Purchasing Conditions shall only be settled by the competent court in Zwolle, the Netherlands.
- 20.3** In the event that one or more of the provisions of these Purchasing Conditions were to be declared invalid or null and void, the remaining conditions shall continue to apply to the Agreement without prejudice.
- 20.4** GD Animal Health has the right to amend these Purchasing Conditions at any time; amended conditions shall be published on the website of GD Animal Health. The Supplier commits itself to regularly check this website.

