



## **GENERAL PURCHASE CONDITIONS**

of Paques Europe B.V. and Paques Technology B.V., with their registered offices in Balk, version 17<sup>th</sup> of March 2021.

### **1. DEFINITIONS**

- 1.1 'Purchase Conditions': these General Purchase Conditions of Paques;
- 1.2 'Supplier': the (potential) counterparty of Paques in connection with purchasing products and services and contracting for work;
- 1.3 'Supply': the products or services to be provided or the work to be performed;
- 1.4 'Agreement': the agreements laid down in writing between Paques and the Supplier with regard to the products or services to be provided or the work to be performed;
- 1.5 'Paques': Paques Europe B.V. and/or Paques Technology B.V. (and/or a group company).
- 1.6 'Parties': Paques and the Supplier.

### **2. GENERAL**

- 2.1 The Purchase Conditions apply to all legal relationships of Paques whereby Paques acts as the (potential) purchaser of products or services or as the (potential) contracting party for work.
- 2.2 The Purchase Conditions can only be deviated from in writing.
- 2.3 Any other general or special conditions than these Purchase Conditions do not form part of the agreements between the Parties and are explicitly rejected. This also applies to the (general) terms and conditions applied by the Supplier.
- 2.4 The term 'written' in these Purchase Conditions also includes being recorded electronically.

### **3. AGREEMENT**

- 3.1 All offers from the Supplier are irrevocable and are valid for 90 calendar days unless otherwise agreed.
- 3.2 All negotiations can be terminated at any time by Paques without stating any reasons and without obligation to pay any compensation.
- 3.3 An Agreement (or an amendment to it) is formed, if
  - the Supplier has signed and returned Paques' order form to Paques, or
  - Paques has accepted an offer in writing from the Supplier or
  - the Supplier has commenced the performance of the Supply in accordance with the order form of Paques.Paques can cancel an order placed by them as long as the Supplier has not signed and returned Paques' order form.
- 3.4 If provisions in the Agreement between Paques and the Supplier have been agreed which are contrary to the Purchase Conditions, the specific provisions in the Agreement will prevail.
- 3.5 If Paques refers in the Agreement or the associated Annexes to technical, safety, quality or other provisions not attached to the Agreement, the Supplier is deemed to be aware of these unless it has informed Paques immediately in writing to the contrary. Paques will then further inform the Supplier about these provisions.
- 3.6 If, in connection with the performance of the Agreement, drawings, specifications, instructions, inspection rules and the like are used, provided or approved by Paques, they will form part of the Agreement.
- 3.7 Any contract variations (and/or other deviations from the Agreement), even if they involve a saving or improvement, will only be taken into account if they have been reported in advance by the Supplier and have been instructed by Paques in writing.



#### **4. DELIVERY DATE AND DELIVERY**

- 4.1 Delivery will be DDP (INCOTERMS® 2020) at the address indicated by Paques unless otherwise agreed.
- 4.2 The agreed delivery dates are deadlines. The mere breach of the delivery date constitutes a default of the Supplier without any further written notice of default being required.
- 4.3 Should the delivery date be exceeded the Supplier will owe Paques a penalty immediately due and payable of 2% of the total price due for each week (or part thereof) by which the delivery date has been exceeded, up to a maximum of 10% of the total price due. The said penalty can be reduced by Paques from the price owed by Paques without any judicial intervention being required. This penalty does not replace other claims, such as a claim for compensation due to a penalty forfeited by Paques to its customer as a result of exceeding the delivery date.
- 4.4 The Supplier is only entitled to supply part-deliveries provided they have been agreed with Paques and do not lead to an increase in expenses for Paques. Paques will be entitled to return any part-delivery(ies) not agreed at the expense and risk of the Supplier. Deliveries before the agreed date(s) can only take place after Paques has given prior written consent and will not lead to a change of the originally agreed payment or warranty period.
- 4.5 Paques may postpone a Supply. If the Supply relates to products, the Supplier shall provide suitable storage during a reasonable period to be determined by Paques.

#### **5. PACKAGING AND TRANSPORT**

- 5.1 Any special requirements set by Paques with regard to the packaging, transport and/or security will be observed by the Supplier with due care, provided these requirements have been communicated within good time. Paques is entitled to return the Supply to the Supplier at the latter's expense and risk if the terms and provisions meant above have not been complied with.
- 5.2 The Supplier must ensure that packaging and transport complies at all times with applicable regulations.

#### **6. TRANSFER OF OWNERSHIP AND RISK**

- 6.1 The ownership of the Supply passes onto Paques on delivery to Paques at the agreed location or at the moment of payment, if that is sooner.
- 6.2 If installation or assembly by the Supplier has been agreed, the Supplier will bear the risk until the installed/assembled Supply has been accepted by Paques in accordance with the provisions in Clause 13 or, if no purchase test has been agreed, the Supply has been put into operation.
- 6.3 If Paques provides the Supplier with items for the performance of the Agreement, (such as raw materials, semi-finished products, materials and parts, models, specifications, drawings, software and information carriers), these items will remain the property of Paques. The Supplier will retain these items clearly marked as the property of Paques on loan, as the borrower it will keep them in a proper condition at its own expense and bears the risk for loss or destruction of these items.
- 6.4 The Supplier is obliged to take out insurance at its own expense for the items, as meant in Clause 6.3, for the duration that it has these items on loan. The Supplier will use these items or have them used exclusively for the performance of the Agreement. The Supplier will return these items immediately to Paques at its own expense after the Agreement has been performed or has ended.
- 6.5 If the Supplier forms a new product with the items which have been provided to him pursuant to Clause 6.3, Paques will become the owner of the new product.

## **7. PRICES**

- 7.1 The prices are fixed, excluding VAT, for the performance of the Agreement, and on the basis of the DDP delivery condition (INCOTERMS® 2020).
- 7.2 Additional costs which have not been explicitly accepted in writing in advance by Paques, will not be eligible for reimbursement.

## **8. INVOICING AND PAYMENT**

- 8.1 The Supplier must submit itemised invoices, within 30 days after the delivery or the purchase, which comply with the legal requirements.
- 8.2 Payment will take place within 60 days after Paques has received and approved the invoice.
- 8.3 Paques may suspend the payment in whole or in part if Paques is of the opinion that the Supplier has not fulfilled or will not fulfil the Agreement.
- 8.4 Paques may attach the condition to the payment that the Supplier issues an irrevocable bank guarantee which is acceptable to Paques which secures the obligations of the Supplier under the Agreement.
- 8.5 Paques may offset a claim on the Supplier against a claim by the Supplier (or of a third party to whom the Supplier transferred the claim on Paques) on Paques, all this regardless of the legal relationship from which the claim originates.

## **9. WARRANTY AND INDEMNIFICATION**

- 9.1 The Supplier is obliged to ascertain the purpose of the Supply, failing which it is deemed to be aware of
  - (a) the purpose for which the Supply is intended and
  - (b) the circumstances under which the delivery must take place.
- 9.2 The Supplier guarantees that
  - (a) the Supply is complete and suitable for the purpose for which it is intended;
  - (b) the Supply is fully in accordance with the written requirements as included in the order, specifications, drawings, calculations and/or other documents provided by Paques;
  - (c) the Supply is of good quality and free from design, implementation and/or material faults and that new materials and skilled personnel are used or deployed for the performance of the activities belonging to the Provision;
  - (d) the Supply complies at least with the relevant regulations of the European Union, regardless as to whether the Supply is used within or outside the European Economic Area (EEA), as well as with the legal requirements and government regulations locally in force at the place of use, unless otherwise provided for in the Agreement;
  - (e) the Supply includes all relevant certificates, statements, attestations, assembly instructions, operating instructions, specifications, drawings, reports, tax details and other documents;
  - (f) insofar as the Supply is provided at a location outside the industrial premises and/or sites of the Supplier, the laws and government regulations as well as the provisions declared applicable for that location by Paques or its client will be observed.
- 9.3 The Supplier warrants that the Supply will not infringe the rights of third parties including intellectual/industrial property rights and know-how, and indemnifies Paques fully against any claims by third parties in this connection.
- 9.4 The Supplier warrants that parts for the Supply and the maintenance required to keep the Supply in a proper condition for a period of 10 years, can be obtained by Paques from the Supplier or can be bought by Paques at prices in line with the market.

## **10. WARRANTY PERIOD / REMEDY OF DEFECTS**

- 10.1 Defects arising within a period of 24 months after the delivery or if Paques and the Supplier have agreed a purchase test 24 months after the purchase by Paques, must be addressed by the Supplier in accordance with the provisions of this Clause 10.
- 10.2 In the event of a remedy or replacement during the warranty period the warranty period for the remedied or replaced products and for all products which were unusable as a result of the defect, will again become effective from the moment of putting them into operation or putting them into use after the remedy or replacement.
- 10.3 The Supplier is obliged to remedy any defects as soon as possible and in any event within the reasonable period stipulated by Paques, by means of a repair or replacement, at the discretion of Paques, and at the location indicated by Paques.
- 10.4 The Supplier is obliged to bear all the costs which must be incurred in order to remedy the defects under the warranty or non-conformity including but not limited to costs of materials, transport costs, travel and accommodation costs, assembly and disassembly costs and other labour costs.
- 10.5 Failing the proper fulfilment of this obligation of the Supplier to remedy and/or to fulfil it within the stipulated period and also in urgent cases Paques will be entitled to do what is necessary or to have this fulfilled by third parties at the expense and risk of the Supplier and Paques will inform the Supplier of this as soon as possible.
- 10.6 The ownership and risk of the replaced products remains with the Supplier from the moment of replacement onwards. The Supplier is obliged to collect these products or have them collected as soon as possible unless Paques requests that it wishes to retain these products for examination.
- 10.7 The Supplier is aware that Paques re-delivers the Supply to its customers all over the world. This does not prejudice Paques from submission of a complaint under the warranty or due to non-conformity and the Supplier will in that case remedy the defects in accordance with the provisions of this Clause. Paques will also be entitled to transfer the rights under the warranty to its customers.

## **11. COMPLAINTS**

Paques is not obliged to examine on delivery the Supply delivered/installed. Paques will inform the Supplier in writing of the complaint within two (2) months after detection of the defect or the non-conformity. The Supplier will then remedy the defects within a reasonable period set by Paques in accordance with the provisions in Clause 10.

## **12. TESTING/INSPECTION**

- 12.1 Testing/inspection of the Supply can take place by (or on behalf) of Paques at the request of Paques at the Supplier's premises prior to the delivery or at Paques' premises after delivery or at Paques' customer after delivery. If the testing/inspection takes place at the Supplier's premises, the Supplier will have the Supply ready for testing/inspection at such a time that the agreed delivery dates can be complied with.
- 12.2 The Supplier will cooperate with the testing/inspection without any further costs for Paques and at Paques' request provide Paques with reasonable staff and material assistance for the testing/inspection. All costs of or in connection with the testing/inspection, except for the costs of Paques, its staff or other persons appointed by Paques as its representative, will be at the expense of the Supplier. If the testing/inspection is delayed through no fault of Paques or Paques rejects the Supply during the testing/inspection, any extra costs and any costs of subsequent tests/inspections (including the costs of the staff and representatives of Paques) will be at the expense of the Supplier.
- 12.3 If Paques rejects the Supply during the testing/inspection, the Supplier will be obliged to offer as soon as possible the Supply which is missing, repaired or replaced for testing/inspection notwithstanding any other rights Paques might have. In that case the

- provisions of this Clause 12 will have full force and effect. Rejection by Paques will not lead to a postponement of the agreed delivery period.
- 12.4 The testing/inspection of the Supply by or on behalf of Paques does not entail an acknowledgement that the Supply complies with the warranties given in Clause 10 or conforms to the Agreement.

### **13. SUPPLY TEST**

- 13.1 If a supply test has been agreed between Paques and the Supplier, the Supplier must offer the Supply delivered or installed for a supply test on the date agreed by the parties in order to determine whether the Supply fully conforms to the Agreement. Paques and the Supplier will determine in advance and in mutual consultation the procedure according to which the purchase test will be carried out. The Supplier will not offer the delivered/installed Supply before the supply test if it knows (or can reasonably assume) that the delivered/installed Supply will not pass the supply test successfully.
- 13.2 The supply test will be carried out by Paques in cooperation with the Supplier within a period further to be agreed between Paques and the Supplier.
- 13.3 The supply test will be completed successfully if the Supplier has received a written notice from Paques serving to that end, possibly with a list of minor faults which do not prevent the putting into operation of the Supply delivered/installed and which minor faults will be remedied by the Supplier free of charge within 5 working days after having received the said notice.
- 13.4 If the supply test has not been successfully completed, the Supplier will adjust the Supply delivered/installed free of charge within a reasonable period after the supply test, in such a manner that it will pass successfully a subsequent supply test. After this, the delivered/installed Supply will again be submitted for a supply test pursuant to the provisions in this Clause 13. All costs associated with this new supply test are at the expense of the Supplier.
- 13.5 If a supply test is completed more than three times without success, Paques will be entitled to dissolve the Agreement with the Supplier without being obliged to pay any compensation or costs.

### **14. INSURANCE**

The Supplier will take out adequate insurance for any of its liabilities on account of the Agreement with Paques or pursuant to the law. At the first request the Supplier will submit a certificate of insurance, or Paques will be allowed to peruse the insurance policies taken out.

### **15. INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS, SECRECY**

- 15.1 All (intellectual/industrial) property rights to the Provision, drawings, specifications, manuals, documentation, samples, software, etc. provided by Paques to the Supplier or which have been created by the Supplier as part of the Agreement, are fully vested in or accrue fully to Paques.  
Paques will not owe a separate fee for these rights and can freely dispose of them. The Supplier will cooperate with the formation of the necessary deeds of transfer (for instance with regard to the (intellectual/industrial) property rights) and hereby also authorises Paques irrevocably to draw up and sign such deeds on behalf of the Supplier.
- 15.2 If the Supply consists of developing/changing software, the Supplier will at the first request of Paques deliver free of charge to Paques the object code, the source code and all associated documentation. All this will be provided in such a manner that Paques will be able to use these effectively without any further effort.
- 15.3 The Supplier is obliged to observe secrecy towards third parties with regard to  
(a) all details/information/items/rights referred to in Clause 15.1 and 15.2 and  
(b) all other details/information/items/rights with regard to Paques, its customers or other business relations or with regard to the Supply provided by Paques or which have become known to it, and will only use them for the performance of the Agreement and shall not make copies of them without the written consent of Paques. The Supplier will also impose this obligation on all its employees who become aware of them and guarantees that these employees will also comply with these obligations. If no

agreement is formed or if an Agreement is terminated or has ended, the Supplier will return all documents and materials to Paques at its own expense.

- 15.4 All instructions given by Paques are confidential and must not be disclosed by the Supplier for publicity or sales-promotional purposes unless otherwise agreed in writing.

## **16. SUSPENSION AND TERMINATION**

- 16.1 In the event of the Supplier's failure to perform its obligations under the Agreement and in the event of a bankruptcy or moratorium or winding-up or discontinuation of the Supplier's business operations, Paques will be entitled to dissolve the Agreement in full or in part without any further notice of default being required and without being obliged to pay any compensation and notwithstanding any other rights Paques might have.
- 16.2 If in the opinion of Paques there are fundamental reasons to fear that the Supplier will not fulfil its obligations towards Paques properly or not in a timely manner, the Supplier will be obliged at the first request of Paques to furnish additional security for the full fulfilment of all its obligations.
- 16.3 Any claims that Paques might have or acquire on the Supplier in these cases, will be immediately and fully due and payable.
- 16.4 Any and all (extra-)judicial costs incurred by Paques as a result of the non-fulfilment by the Supplier will be borne by the Supplier.

## **17. FORCE MAJEURE**

- 17.1 In the event of force majeure the Party who will be affected by this must inform the other Party of this immediately in writing, specifying the circumstances of the force majeure, the measures taken and/or proposed and the expected duration of the delay. The Party invoking force majeure must be able to demonstrate the force majeure.
- 17.2 If a force majeure situation on the part of the Supplier lasts 30 (thirty) days or longer, appears to be definitive or if Paques cannot fulfil any obligations applicable to it as a result of that force majeure, Paques may dissolve the Agreement in whole or in part.
- 17.3 The term force majeure does not in any event include a lack of personnel, work strikes, attributable failure of third parties engaged by the Supplier or sub-contractors, price increases or late delivery or failure of materials and liquidity or solvency problems.
- 17.4 The Parties are aware of the uncertainties surrounding the consequences of the current and future (government) measures in the Netherlands and other countries against the spread and reduction of the COVID-19 virus or any other epidemic. The Supplier will cooperate with any changes in the planning if as a result of (government) measures the planning of Paques changes. The Supplier is only entitled to compensate any additional costs and/or compensation as a result of these changes in the planning insofar as Paques is entitled to reimbursement from its client.

## **18. TRANSFER AND PLEDGE**

Without the written consent of Paques the Supplier is not entitled to transfer the performance of the agreement or any part of it to any third parties or to assign any claims which the Supplier has on Paques pursuant to the Agreement to any third parties or to pledge them.

## **19. OTHER PROVISIONS**

If a provision of these Purchase Conditions is null and void or unenforceable, this will not affect the validity of the other provisions. In the event of unlawful provisions in these Purchase Conditions the Parties are bound by rules which are as much as possible the same and which are not null and void or unenforceable.

## 20. APPLICABLE LAW AND COMPETENT COURT

- 20.1 The legal relationship between Paques and the Supplier is exclusively governed by Dutch law.
- 20.2 Any disputes that might arise in connection with these Purchase Conditions, the order form, or any other document on the basis of which a purchase order of Paques is formed, will be submitted to the District Court of Noord-Nederland.
- 20.3 The Dutch version of these Purchase Conditions contains the authentic text. In the event of any deviation and/or difference of opinion concerning the explanation or interpretation of a translated text of these Purchase Conditions, the Dutch text will prevail and be taken as a starting point.

## 21. ADDITIONAL CONDITIONS

In the event of hiring personnel or subcontractors, the following additional conditions will apply.

- 21.1 The use of subcontractors by the Supplier in performing an Agreement is only allowed after Paques has given written consent. Paques may attach conditions to the consent.
- 21.2 The Supplier will provide details requested by Paques about subcontractors and about the persons deployed in the employment of subcontractors for the performance of an Agreement, in accordance with the applicable legislation.
- 21.3 If the Supplier fails or threatens to fail to fulfil its payment obligations to subcontractors or temporary agency workers engaged by the Supplier in performing the Agreement, Paques may choose to pay an amount equal to the fee payable by the Supplier to the subcontractor/temporary agency worker, or a part of it, into the account of the subcontractor/temporary agency worker. Paques will inform the Supplier of this in writing in advance. The payment into the account of the subcontractor/temporary agency worker is considered as payment to the Supplier and Paques can deduct this from the fee payable by Paques to the Supplier.
- 21.4 The Supplier is liable for shortcomings in the fulfilment of the Agreement caused by subcontractors or temporary agency workers and indemnifies Paques against claims by these third parties.
- 21.5 The Supplier guarantees that it and the subcontractors or temporary agency workers engaged by it in performing an Agreement, comply with the tax return and payment obligations to the tax authorities and the Dutch Institute for Employee Benefit Schemes ('UWV'). The Supplier indemnifies Paques against claims in connection with non-fulfilled obligations.
- 21.6 At the request of Paques the Supplier will give proof of its payments and payments by third parties engaged by it by means of a Statement of Payment History regarding Subcontractor Liability and Temporary Employer's Liability ('*Verklaring betalingsgedrag keten- en inlenersaansprakelijkheid*').
- 21.7 Paques has the right to pay to the Supplier the payroll tax and national and employee insurance contributions to be paid by the Supplier in connection with the performance of an Agreement, for which Paques could be jointly and severally liable, by payment into the Supplier's blocked account ('*G-rekening*'). The Supplier will cooperate fully with this.
- 21.8 In addition to Clause 8.1 the invoice shall state:
  - a. the purchase order number;
  - b. what the Supply is called as described in the purchase order and a description of the nature of the activities;
  - c. the location(s) where the Supply is to be performed;
  - d. the period to which the invoice relates;
  - e. the wage bill forming part of the invoiced amount;
  - f. the number of employees to which the invoice relates;
  - g. if applicable: the note 'Turnover tax transferred';
  - h. if applicable: the number of the G-rekening and the amount to be paid into the respective account;
  - i. the VAT number.Each invoice will not relate to more than one purchase order number.