

NAUTA – GENERAL PURCHASE TERMS

General provisions

1. Definitions and interpretations

1.1. The capitalised terms in these General Purchase Terms have the following meaning:

General Purchase Terms:	these Nauta general purchase terms;
Agreement:	an agreement between Nauta and Supplier pursuant to which Products and/or Services are supplied and which is concluded in accordance with the provisions of Article 3;
Article:	the relevant article in these General Purchase Terms;
Confidential Information:	as defined in Article 16.1;
Delivery:	the delivery of Products in accordance with the provisions of Article 6.1;
Nauta:	Nauta Security Storage B.V.
Parties:	Nauta and Supplier together;
Prices:	as defined in Article 4.1; and Products – any products (or parts thereof) to be supplied by a supplier pursuant to an Agreement, including the related documentation and materials (including spare parts);
Services:	the services which a Supplier is to provide pursuant to an Agreement;
Supplier:	Nauta's contracting party under an Agreement.

1.2. Unless otherwise stipulated in these General Purchase Terms or the Agreement: (a) words in singular include the plural, and vice versa; and (b) "written" or "in writing" also includes electronic communication, such as messaging by email, the Web and electronic data interchange (EDI).

1.3. In the event of a conflict between the provisions of these General Purchase Terms and those of an Agreement, the latter shall prevail.

1.4. The deadlines stipulated in relation to a Supplier's performance in an Agreement shall be deemed to be final deadlines (fatale termijnen).

1.5. Nauta's rights and entitlements pursuant to these General Purchase Terms and the Agreement shall apply concurrent with its rights and entitlements in relation to Supplier pursuant to the Agreement and the law as a result of an attributable breach, non-conformity or on any other grounds.

2. Scope of application of General Purchase Terms

2.1. These General Purchase Terms shall apply in relation to all offers and quotations presented by a Supplier and shall constitute an integral part of any Agreement between the Parties, pursuant to which Nauta acts as an actual or potential procurer of Products and Services from a Supplier, irrespective of the manner in which the relevant Agreement has come into effect or the extent to which that Agreement refers to these General Purchase Terms.

2.2. Nauta explicitly rejects the application of any general terms and conditions or terms of sale of Supplier. As such, they shall not apply in relation to any Agreement between the Parties.

2.3. Any amendment or variation of these General Purchase Terms shall only apply provided that the Parties have agreed to it in writing. Such an amendment or variation shall only apply in relation to the Agreement in respect of which it has been agreed to.

2.4. In the event that one or more provisions of these General Purchase Terms and/or an Agreement is null and void or voidable pursuant to the provisions of the law, the Parties undertake to replace those provisions with lawful ones which approach the Parties' intentions as much as possible. The aforementioned situation shall not affect the validity of the remaining provisions of these General Purchase Terms and/or the Agreement.

2.5. Subject to the provisions of Article 2.3, Nauta reserves the right to amend these General Purchase Terms unilaterally.

3. Conclusion of an Agreement

3.1. The Parties shall be deemed to have concluded an Agreement after Nauta places an order with the relevant Supplier and receives a confirmation of that exact order from the Supplier. A Supplier's confirmation of an Agreement must state the Price for each individual Product.

3.2. Any offer or quotation presented by a Supplier, including any Price referred to in it, shall be binding and irrevocable, unless that offer or quotation explicitly stipulates otherwise.

4. Prices

- 4.1. The price of any Products and Services shall be stipulated in the Agreement in euros and is exclusive of value added tax (the "Price").
- 4.2. Unless explicitly stipulated otherwise in the Agreement, a Price shall include the cost of packaging, transport and travel expenses, as well as the fee payable for any intellectual property rights which may be associated with the Products and/or Services.
- 4.3. In principle, a Supplier's revision of Prices shall not be accepted, unless they are announced in writing no less than three (3) months beforehand and are accompanied by a verbal or written statement of the grounds for their revision.

Execution of an Agreement

Products

5. Purchase, ownership and risk

- 5.1. A Supplier shall sell and Nauta shall purchase the Products as referred to in the Agreement.
- 5.2. A Supplier shall transfer ownership of the Products to Nauta upon their Delivery, unless Nauta has already paid for them beforehand, in which case their ownership shall pass to Nauta upon payment.
- 5.3. Any risks pertaining to the Products shall pass upon their Delivery notwithstanding the provisions of Article 6.5.

6. Delivery of Products

- 6.1. Products shall be delivered in the manner, to the place, by the deadline and/or at the time stipulated in the Agreement.
- 6.2. In the event that nothing is stipulated in the Agreement regarding Delivery, the Supplier shall contact Nauta concerning the manner in which Delivery is to be effected.
- 6.3. Delivery in instalments shall not be permitted unless the Parties agree otherwise in writing.
- 6.4. Notwithstanding the foregoing, Supplier shall have a duty to notify Nauta of every actual or anticipated delay in the execution of the Agreement.
- 6.5. A Delivery shall be deemed to have been completed if and in so far as Nauta has signed for the receipt of the Products. In this respect the Parties agree that: (a) such signing shall not constitute a waiver of any right; (b) the Supplier may not derive any rights from such signing; and (c) Nauta's rights and entitlements pursuant to Article 7 shall not be affected.
- 6.6. Nauta shall not be bound by any term unilaterally stipulated by a Supplier within which Nauta is required to (i) inspect or test the Products, (ii) file a complaint that the Products do not comply with the Agreement, or (iii) give notice that the Products have been rejected.

7. Inspection of Products

- 7.1. Nauta shall be entitled to inspect and test (or to arrange for this to be done) any Products that have been delivered in order to determine whether they comply with the Agreement, and to reject them should they not conform to the specifications stipulated in the Agreement, or the norms, technical standards or rules (legal or otherwise) generally applicable in the industry. A Supplier shall provide every assistance to Nauta or any other party engaged by the latter and shall provide them with any information that may reasonably be required.
- 7.2. In the event that Nauta rejects any Products pursuant to Article 7.1, it shall notify the Supplier of this in writing. A Supplier shall undertake to collect any Products which have been rejected within a period of seven (7) calendar days and, should that Supplier fail to do so, Nauta shall be entitled to send the rejected Products back to that Supplier at the latter's risk and expense. During the intervening period, Nauta shall store (or arrange for this to be done) any rejected Products at the Supplier's risk and expense. Furthermore, Nauta reserves the right to sell, destroy or to carry on storing – at the Supplier's risk and expense any Products which have been rejected (or to arrange for this to be done) in the event that the Supplier refuses to take receipt of those Products.
- 7.3. In order to avoid any doubt, let it be known that Nauta shall not be due any payment for Products that have been rejected.
- 7.4. An inspection or test as provided for in Article 7.1 shall, on the one hand, not affect Nauta's rights, which are deemed to include but not limited to those pursuant to Article 8. On the other hand, a Supplier may not derive any rights from the findings of such inspection or the absence thereof.

8. Warranties in relation to Products

8.1. Supplier warrants that for a period of twelve (12) months following Delivery, or longer where stipulated otherwise in the Agreement, the Products will: (a) comply with the Agreement, and will – and will continue to – conform to the specifications stipulated in that Agreement, which also includes (technical) designs; (b) comply with the norms, technical standards or rules (legal or otherwise) generally applicable in the industry; (c) possess the promised properties and will be suitable for the purpose as specified by Nauta; and (d) be free of any defects and any third-party rights.

8.2. In the event that any Products are delivered to a Nauta customer, the period of twelve (12) months referred to in Article 8.1 shall commence at such time as those Products have been delivered to that customer.

8.3. Throughout the terms of the warranty stipulated in Articles 8.1 and 8.2, a Supplier shall immediately upon Nauta's first request, free of charge, repair, supplement or replace (at Nauta's discretion) any defect in or deficiency of a Product which does not comply with the warranties that have been given. A new warranty term of twelve (12) months shall apply with regard to any parts or Products which have been repaired, supplemented or replaced.

8.4. The provisions of Article 8.3 shall apply notwithstanding any of Nauta's other rights and entitlements, which are at any rate deemed to include its right to seek performance, compensation and/or to cancel all or part of the Agreement.

8.5. Supplier shall indemnify Nauta against any legal claim made by a third party pursuant or in relation to the failure of a Product to comply with the warranties given pursuant to this Article 8, and shall compensate Nauta for any losses and costs which it may suffer as a result.

Services

9. Provision of Services

9.1. Supplier undertakes to provide the Services at the place stipulated in the Agreement. Such Services shall be provided within the term and/or in accordance with the time schedule and against the fee as stipulated in the Agreement.

9.2. Subject to the provisions of Article 9.1, a Supplier shall undertake to notify Nauta of any actual or anticipated delay in the execution of the Agreement.

9.3. Any Services shall be deemed to have been completely provided that (i) Nauta confirms in writing and that those Services have been provided, and (ii) Nauta accepts and approves in writing the outcome of those Services, whether or not such is based on criteria stipulated in the Agreement.

10. Warranties in relation to Services

10.1. Supplier warrants that:

- (a) the Services will be provided in full, on time, without disruption and in a skilled and professional manner;
- (b) it will arrange for the Services to be provided by skilled personnel;
- (c) it will at all times comply with its obligations pursuant to tax and social insurance legislation in relation to its staff and any other third party contractors whom it has engaged;
- (d) the Services and their outcome will comply with the Agreement concerned and will conform to the agreed specifications stipulated in that Agreement (which is also deemed to include (technical) designs); and
- (e) the outcome of the Services will possess the properties in respect of which an undertaking has been given and will be suitable for the purposes for which Nauta has procured them.

10.2. Should it appear that the provision and/or outcome of any Services does not comply with the warranties stipulated in Article 10.1, the Supplier shall upon Nauta's first request, and at Nauta's discretion provide the Services again free of charge.

10.3. The provisions of Article 10.2 shall apply notwithstanding any of Nauta's other rights and entitlements, which are at any rate deemed to include its right to seek performance, compensation and/or to cancel all or part of the Agreement.

Other provisions

11. Invoicing and Payment

11.1 Supplier shall only issue invoices to Nauta after the Products or Services have been supplied in full, stipulating the product and purchase order number cited by Nauta and describing the Products or Services which have been supplied. In the event that an invoice does not comply with the requirements stipulated above, Nauta shall be entitled to suspend payment until it receives a satisfactory invoice.

11.2. All invoices, including any specifications, must be sent to the address stipulated in the Agreement or any other address of which Nauta has notified the Supplier in writing.

11.3. Nauta shall pay any undisputed invoice which complies with the requirements stipulated in this Article 11 no later than within thirty (30) days after the relevant invoice date.

11.4. Nauta Group B.V. and/or any legal entity associated with it, which includes but is not limited to Nauta B.V. and Nauta Security Storage B.V., shall always be entitled to setoff and/or to suspend the payment of any amount due to Supplier in the event that any other Nauta entity has or acquires a claim against the Supplier under any title whatsoever.

12. Cancellation and termination

12.1. Nauta shall be entitled to cancel all or part of an Agreement with immediate effect in the event that:

- (a) the Supplier culpably fails to comply with a material obligation and – where they are not already in default by operation of the law – still fails to do so within ten (10) days after Nauta notifies that Supplier in writing that the latter is in default. Any failure on the part of a Supplier to comply with the warranties and obligations stipulated in these General Purchase Terms and/or the Agreement shall at any rate be deemed to constitute a failure to comply with a material obligation;
- (b) a situation of force majeure (in accordance with Article 13) exists on the part of the Supplier which lasts for longer than ten (10) days;
- (c) the Supplier applies for a (provisional) moratorium on payments, this is done on their behalf or they are granted a (provisional) moratorium on payments; and/or
- (d) the Supplier files for bankruptcy, an application is submitted for its bankruptcy or it is declared bankrupt.

12.2. Where an Agreement is deemed to constitute a continuing performance contract, its term shall be as stipulated in that Agreement. After the initial term the Agreement shall be tacitly converted into an agreement for an indefinite term by operation of the law.

12.3. Where an Agreement is deemed to constitute a continuing performance contract, Nauta shall be entitled to cancel (opzeggen) it at any time subject to a term of notice of one (1) month irrespective of the time during which that Agreement has already been in existence. Cancellation must be effected towards the end of a calendar month.

13. Force majeure

13.1. The Parties shall not have a duty to comply with any obligation pursuant to an Agreement (other than any duties pursuant to a warranty) should they be prevented from doing so by force majeure.

13.2. In any case the following does not qualify as a Force majeure on the part of a Supplier: lack of personnel, sickness or unsuitability of staff, strikes, culpable default on the part of a third party engaged by Supplier, the absence of any licence, permit or consent, or any industrial dispute.

14. Amendment of an Agreement

14.1. Upon Nauta's request, Supplier shall implement any change or amendment in the scope and/or nature of the relevant Products or Services or the Agreement, provided that such is reasonably possible.

14.2. In the event that a Supplier is of the opinion that such change or amendment will have implications for the agreed Price and/or delivery time, the Supplier shall notify Nauta of such in writing as soon as possible but not later than within two (2) days after the aforementioned request.

14.3. In the event that the amendment of the Agreement results in a new Price and/or delivery time, Nauta shall be entitled to require the execution of the unamended Agreement or to cancel the Agreement with immediate effect without having any obligation to pay any compensation.

15. Intellectual property

15.1. Supplier shall grant Nauta a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, transferable, sublicensable license to the intellectual property rights regarding the Products or outcome of the Services. The aforementioned licence shall also include entitlement to grant a right of use to Nauta's current or potential customers, or buyers.

15.2. Supplier shall indemnify Nauta against any losses or costs resulting from any third party claim regarding an actual or alleged infringement of (intellectual property) rights relating to the Products or the outcome of the Services.

16. Non-disclosure

16.1. All information provided by Nauta, whether such is written, verbal, electronic or in any other form and of any nature whatsoever, of which the Supplier is aware or ought to be aware of its confidential nature ("**Confidential Information**"), which is deemed to include but is not confined to the business operations conducted by Nauta and any legal entity associated with it, shall be treated by Supplier with the strictest confidence. Regarding such Confidential Information, Supplier shall at least endeavour to exercise the same degree of care as it would for the purposes of protecting any of its own information which is of a highly confidential nature.

16.2. Supplier shall not disclose or otherwise reveal any Confidential Information to any person other than the staff and/or advisers who need to familiarise themselves with such Confidential Information for the purposes of carrying out their work for the Supplier, and shall only disclose this Confidential Information to such persons after the latter have been informed of the confidential nature of that information.

16.3. Supplier warrants to Nauta that the aforementioned persons will comply with the provisions of this Article 16.

16.4. In the event of a contravention of the provisions of this Article 16 by or on behalf of the Supplier, the Supplier shall forfeit to Nauta, without any prior demand letter or notice of default due, an immediate penalty equivalent to no less than 30% of the Price stipulated in the Agreement, which penalty shall not be susceptible of mitigation, and notwithstanding any other rights and entitlements held by Nauta, which is deemed to include the right to seek performance, full or partial termination (ontbinding), or additional compensation.

17. Governing law and disputes

17.1. These General Purchase Terms and any Agreement between the Parties shall be governed by and construed in accordance with the law of the Netherlands. The Vienna Sales Convention 1980 shall not apply.

17.2. The parties shall endeavour to resolve any dispute arising pursuant or in relation to these General Purchase Terms or an Agreement in close consultation with each other. In the event that such consultation provides no solution, any dispute shall exclusively be brought before the District Court of Gelderland, whose seat is in Arnhem, the Netherlands.