

**GENERAL PURCHASING  
TERMS AND CONDITIONS**

of

**Boskalis Dolman B.V.,  
BVNN Boskalis Dolman vof,  
Groot Boskalis Dolman vof,  
Smink Boskalis Dolman vof,  
Stuyvesant Environmental Contracting LLC.,  
Stuyvesant Projects Realization Inc.****with registered offices at Rosmolenweg 20,  
Papendrecht, Netherlands****A. GENERAL PROVISIONS****Article 1. Definitions**

In these General Terms and Conditions, the following terms will be understood to have the meanings assigned to them below:

- 1.1 Buyer All entities with registered offices at or with the address Rosmolenweg 20, 3356 LK Papendrecht, Netherlands
- 1.2 Supplier: Each natural person or legal entity from which the Buyer orders Products and/or Services and/or with which the Buyer negotiates regarding the Order for Products and/or Services.
- 1.3 Order: The Buyer's Order issued to the Supplier to supply Products and/or perform Services in the format described in Annex 1 to these General Purchasing Terms and Conditions
- 1.4 Products: All goods delivered, or to be delivered, to the Buyer in the context of performing the Order, regardless of whether the Order exclusively involves the supply of those goods or whether it also involves the supply of Services.
- 1.5 Services: The performance that the Supplier renders to the Buyer pursuant to the Order, to the extent this does not consist of supplying Products.
- 1.6 Specification: Detailed description of the Products or Services ordered by the Buyer stated or referred to in the Order.
- 1.7 Agreement: Agreement between the Buyer and the Supplier regarding the Order.

**Article 2. Applicability of these Terms and Conditions**

- 2.1 These Terms and Conditions are – to the exclusion of the Supplier's terms and conditions – applicable to all Orders between the Buyer and the Supplier, as well as to any ensuing or related agreements or further agreements. These Terms and Conditions are also applicable to negotiations regarding such Orders or Agreements, even if said negotiations do not result in the conclusion of an Agreement. The Supplier shall be considered to make his/her/its offer based on these Terms and Conditions.
- 2.2 Regardless of their form, deviations from or supplements to these Terms and Conditions shall only apply if the Buyer has consented to same in writing.
- 2.3 If there is a difference in meaning between the Dutch-language version of these Terms and Conditions and the translation of these Terms and Conditions into another language, the Dutch-language version shall prevail.

**Article 3. Applicable law**

- 3.1 These Terms and Conditions, all Orders placed by the Buyer and all Agreements concluded between the parties are governed by the laws of the Netherlands. The applicability of the United Nations Treaty Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is excluded.

**Article 4. Order**

- 4.1 The Buyer shall only be bound by Orders that are confirmed by the Supplier's returning, within 14 days of receiving the Order, a signed copy of the Order, unless the Order specifies another term. If the Supplier does not confirm the order with the stated period, the Order shall expire. As long as the Supplier has not confirmed the Order as described above, the Buyer shall be entitled to cancel the Order by providing written notice to the Supplier of same, without the Buyer being liable for any payment of damages or other compensation to the Supplier.
- 4.2 Offers, delivery deadlines, warranties, specifications and price lists provided by the Supplier, as well as other provisions agreed in writing, may not be unilaterally changed after their issue.
- 4.3 The Agreement shall be concluded by the timely confirmation of the Order. The content of the Agreement shall be determined exclusively by the Order and these Terms and Conditions.

**Article 5. Prices**

- 5.1 The prices stated in the Order are fixed. The parties must jointly agree to any changes to those prices.
- 5.2 The prices of the Products include the

standard packaging and duty-paid delivery (“DDP”) to the destination specified by the Buyer (Incoterms 2000), in accordance with Article 12. Moreover, the prices for all Products and Services also include all preparatory and other work necessary to satisfy the requirements imposed by the Buyer, the descriptions and the Specification. Derogation from this provision in favour of Delivery EXW may be decided upon in mutual consultation. The Buyer will then arrange for transportation for its own account and risk.

## **B. PERFORMANCE OF THE AGREEMENT**

### **Article 6. Outsourcing**

- 6.1 The Supplier shall perform the Order himself/herself/itself, unless the Buyer has expressly granted its prior written consent to permission to, or has issued a written Order allowing, the Supplier to contract out work, use any sub-contractors, or source any products or services from third parties. The Supplier shall be fully responsible for the performance of third parties engaged in performing the Order as if it were his/her/its own performance.
- 6.2 The Supplier shall indemnify the Buyer against all claims made by third parties involved in performing the Order.

### **Article 7. Timely performance**

- 7.1 The Supplier must perform the Order within the term for performance stated in the Order. The term for performance commences on the Order date, unless the parties agree otherwise in writing.
- 7.2 Should the Supplier fail to meet all or some of the requirements laid down in Article 7.1, the Supplier will immediately be in default without any notice of default being required. In such case, the Buyer shall be entitled, without recourse to the courts and without prejudice to its other rights, to terminate the entire Order or to terminate that part of the Order that has not been performed (and to have a third party perform same at the Supplier’s expense).
- 7.3 As soon as circumstances arise or may be foreseen which prevent the Supplier from satisfying the obligations laid down in Article 7.1, the Supplier shall notify the Buyer immediately of this fact in writing, stating the nature of the circumstances, the measures the Supplier has taken and the expected duration of the delay, in default of which the Supplier will be precluded from citing these circumstances at a later time. A claim of force majeure shall not release the Supplier from his/her/its obligations if he/she/it has not complied with the provisions of this Article.

### **Article 8. Postponement of delivery**

- 8.1 The Buyer shall be entitled to postpone the delivery of the ordered Products and/or the performance of ordered Services for a reasonable period of time by providing the Supplier with a written statement to that effect. In the aforementioned statement, the Buyer shall indicate the period of time by which the performance term will be extended.
- 8.2 If the Buyer avails itself of the right referred to in Article 8.1, the Supplier shall store the Products in a suitable place in such a manner that they are identifiable as being destined for the Buyer and shall take suitable measures to prevent any loss of the quality in the Products. The Buyer shall pay the Supplier a reasonable fee for the costs incurred in relation to said storage.

### **Article 9. Performance according to the Specification**

- 9.1 The Supplier shall be obliged to perform the Order in strict accordance with the Specification and with due observance of the usual requirements of good workmanship. Derogation from this provision is possible in the Order.
- 9.2 The Buyer shall be entitled to amend the Specification within the context of the Order. Should this amendment result in a substantial change in the costs or the time necessary for the performance of the Order, then the price or date of delivery or supply of the Order will be adjusted accordingly. The Supplier shall inform the Buyer within 14 days of receiving written notification of the amendment if the amendment will result in a substantial change in the costs or the time necessary for the performance of other applicable and/or specifications agreed in writing in the Order. Any lack of Agreement between the parties about a claim for amendments of the kind referred to here shall be considered a dispute of the kind referred to in article 21. Pending any decision about a dispute of this kind, the Supplier shall perform the order in accordance with the amendment proposed by the Buyer.

**Article 10. Quality guarantee**

- 10.1 The Supplier shall warrant the proper quality of the Products delivered and/or Services performed by he/she/it. The Supplier shall in any case warrant that
- a. The Products and/or Services are suitable for the purpose for which they have been ordered;
  - b. The Products are new, of good quality and free of defects in design, processing, manufacture, construction and measurement, as well as free of defects in the parts and/or materials used, unless agreed otherwise in the Order;
  - c. The Products have been manufactured in accordance with the most recent state of the art;
  - d. The Products comply in full with the Specification and any samples, models and drawings in terms of amounts, description, quality and performance;
  - e. All prevailing legislation and regulations relating to the execution of the Products and/or the Services have been observed precisely.
- 10.2 Products shall in any case be considered unsuitable if, within 1 year of delivery, defects become apparent, unless same are attributable to gross negligence on the part of the Buyer, or misuse by the Buyer.

**Article 11. Inspection before delivery**

- 11.1 The Buyer shall at all times be entitled to examine or test ordered Products before delivery, during their processing, manufacture or storage, or to cause same to be done. The Supplier shall always grant the Buyer, or an expert designated by the Buyer, access to the necessary facilities and offer all due assistance.
- 11.2 The Supplier shall notify the Buyer in good time of all tests to be performed by the Supplier. The Buyer shall be entitled to attend these tests or to have them attended by an expert it designates.
- 11.3 Regardless of whether the Buyer has availed itself of the rights stipulated in Articles 11.1 and 11.2, and regardless of the outcome of the examinations and tests referred to in those Articles, the Supplier shall always remain fully responsible for the proper performance of the Order.

**Article 12. Delivery**

- 12.1 The Supplier shall pack and/or secure the Products in such a way as to ensure that they will reach their destination in good condition when shipped by normal means of transport, and that they may safely be unloaded once they

reach their destination. The Supplier shall duly observe and use all due care in meeting any special packaging and/or safety requirements imposed by the Buyer, provided that the Buyer has notified the Supplier of same in good time. The packaging must always comply with the relevant statutory requirements.

- 12.2 The Supplier shall strictly conform with the Buyer's instructions stated in advance and in good time regarding preservation, marking, shipment, insurance of transportation risks and transport documents to accompany delivery.
- 12.3 The Buyer shall be entitled to reject shipments which do not conform with the provisions of Article 12.1 and/or 12.2.
- 12.4 The Buyer reserves the right (if applicable) to return packaging materials to the Supplier at the Supplier's risk and expense, and to receive a credit for the amount that the Supplier has charged the Buyer for this packaging. The Supplier shall use all due care and shall suitably insure packaging or transport materials that the Buyer lends to the Supplier.
- 12.5 Products must be delivered DDP (Incoterms 2010) at the location designated by the Buyer. The Supplier is obliged to ensure proper standard packaging and suitable transport. Partial deliveries of ordered Products are permitted only if such are expressly stipulated in the Order. Delivery shall take place entirely at the Supplier's risk and expense, even if the Supplier uses the services of the Buyer's staff in performing any aspect of the delivery. Derogation from this provision in favour of Delivery EXW may be decided upon in mutual consultation. The Buyer will then arrange for transportation for its own account and risk.

**Article 13. Inspection after delivery**

- 13.1 Unless agreed otherwise in the Order, the Buyer shall inspect the Products or assess the Services within a reasonable time of their being delivered or performed, respectively. If that inspection indicates that the ordered Products or Services are inconsistent with the Order, then the Buyer shall return the Products or reject the Services or shall accept the Products and/or Services at a lower price.
- 13.2 The inspection shall not preclude the Buyer from claiming the Supplier's non-performance of his/her/its warranty obligations stipulated in Article 10 or of any other obligations the Supplier may have to the Buyer.
- 13.3 Sections 6:89 and 7:23 of the Netherlands Civil Code shall not apply.

**Article 14. Transfer of ownership and risk**

- 14.1 The Buyer shall acquire ownership of ordered Products after they have been delivered to it. The Supplier shall bear the risk of harm to or loss of ordered Products until such time.
- 14.2 Contrary to the provisions of Article 14.1, the Buyer shall acquire ownership of ordered Products when, as referred to in Article 8, they are put into storage for it.
- 14.3 If incomplete Products have been paid for in advance, the Buyer shall (by virtue of the advance payment it has made) acquire ownership of all materials, raw materials and semi-manufactured materials with effect from the date of the advance payment, without any further act of delivery being required. The Supplier shall keep these Products separate, free from encumbrances and duties, on behalf of the Buyer.
- 14.2 Even if ownership has been transferred pursuant to Article 14.3 or 14.3, the Supplier shall bear the risk of harm to or loss of ordered Products until such time as the Products are delivered.

**Article 15. Payment, assignment and offsetting**

- 15.1 The Buyer shall not owe payment until the Order has been performed in full. The Supplier shall then be entitled to submit an invoice. The payment term is 45 days (or any other term agreed in the Order) after the Buyer has received the relevant invoice.
- 15.2 The Supplier shall not transfer his/her/its claims on the Buyer to any third party, unless the Buyer has furnished its advance written consent to same.
- 15.3 The Buyer shall be entitled to offset all debts it owes to the Supplier against any claim that the Buyer has against the Supplier or against a group company affiliated with the Supplier. If the claim offset by the Buyer has not yet become due, a discount shall apply in an amount equal to the statutory interest owed for the period between the offset date and the due date.
- 15.4 Without prejudice to its statutory rights to postpone performance, the Buyer shall be entitled to suspend payment to the Supplier as long as the Supplier, or a group company affiliated with the Supplier, continues to default on his/her/its obligations towards the Buyer pursuant to other agreements between the parties.
- 15.5 If Products are stored in accordance with Article 8, payment shall be owed within the term stated in Article 15.1 after the storage of the ordered Products begins.

**Article 16. Goods made available by the Buyer**

- 16.1 The Buyer shall remain the owner of all goods it makes available to the Supplier in connection with the Order. The Supplier shall at all times refrain from using these goods in such a way that third parties acquire ownership of same through alteration, accession, confusion or any other cause. If the aforementioned goods become part of a Product, the Buyer shall, contrary to the provisions of Article 14, acquire ownership of that Product by operation of law without any further act of delivery being required. This provision shall not prejudice the provisions regarding risk contained in Article 14, which shall remain in full force and effect.
- 16.2 The Supplier shall, at his/her/its own expense and on behalf of the Buyer, ensure that all of the goods that he/she/it receives from the Buyer are insured, under the usual terms and conditions, against all harm or loss that could result from the full or partial loss of, or harm to, those goods, regardless of the cause of same. The Buyer shall be entitled to examine the policy or policies referred to, which policies must list the Buyer as a co-insured party.
- 16.3 Immediately after the Order is performed and unless the Buyer instructs the Supplier otherwise in writing, the Supplier shall return, in good condition, all models, stamps, drawings or other tools that the Buyer has provided to the Supplier. The Supplier shall use these tools entirely at his/her/its own risk; The Buyer shall never be liable for any negative consequences ensuing from the use of these tools by the Supplier or any third parties. The Supplier shall not use these tools for any purpose, or authorise or allow the tools to be used by a third party for purposes other than in connection with the proper performance of the Order.

**Article 17. Liability and indemnity**

- 17.1 The Supplier shall perform the Order entirely at his/her/its own risk. The Supplier shall compensate all harm or loss resulting from or connected with the performance of the Order that is incurred by the Buyer or by third parties, regardless of whether that harm or loss is caused by the Supplier, his/her/its personnel or parties whom the Supplier has involved in the performance of the Order.
- 17.2 The Supplier shall be fully liable for any harm or loss that the Buyer or third parties may incur as a result of any defects in the Products supplied and/or the Services rendered, even if the Supplier is not culpable in any way for the creation or existence of those defects.

17.3 The provisions of Articles 17.1 and 17.2 shall also inure to the benefit of any aggrieved third parties referred to therein. The Supplier shall indemnify the Buyer against all claims which such third parties may assert against the Buyer.

**Article 18. Breach by or insolvency of the Supplier**

18.1 If delivered Products and/or Services are rejected in accordance with the provisions of Article 13 or if, after they have been accepted as referred to in said Article, it emerges that the Supplier not has fulfilled his/her/its obligations pursuant to the Agreement, the Supplier will be required to remedy and/or repair, upon first request of the Buyer, the shortcomings and/or defects noted during the inspection or that become apparent thereafter without additional expenses for the Buyer. The repair work will be carried out at the delivery location or elsewhere, at the discretion of the Buyer within reason. If the Supplier does not immediately comply with this request, the Buyer shall be entitled to take the action or to have the action taken that is necessary and to charge all associated expenses to the Supplier. After repair or remedy, the provisions in Article 10.2 shall apply to the repaired product starting on the date upon which the repair work is completed.

18.2 If the Supplier fails to perform the Order in good time or properly, or if it cannot be reasonably assumed that the Supplier will perform the Order in good time or properly and if the Supplier's business goes bankrupt, suspends payments or is liquidated, the Buyer shall be entitled without being required to issue notice of default and without judicial intervention to dissolve the Agreement in whole or in part without being required to pay any compensation and without prejudice to any other rights the Buyer may have. Pursuant to the dissolution of the Agreement as referred to here, the Buyer shall be entitled to reclaim any payments the Buyer has made to the Supplier under the Agreement. In so far as, when the Agreement is dissolved, any performance already made by the Supplier cannot be returned and complies with the Order in other respects, the Supplier shall be entitled to payment on the basis of a reasonable value to be determined that the performance has for the Buyer, to be offset against any claims that the Buyer may have on the Supplier with respect to the shortcoming and/or dissolution. In so far as return is possible, the Buyer shall be entitled, at the Buyer's discretion, to keep the performance in exchange for payment as referred to above, or to return it to the Supplier for the Supplier's

account and risk, without prejudice to any exercise of the rights referred to in Article 18.5.

18.3 Notwithstanding a dissolution of the Agreement as referred to in Article 18.2, the Buyer shall retain all of its rights and the Supplier shall retain all of his/her/its obligations as stipulated in these Terms and Conditions or under law.

18.4 Notwithstanding its other rights, the Buyer shall be entitled to charge to the Supplier any judicial or other costs, including costs of legal assistance, that

the Buyer has incurred or will incur reasonably for the recovery of any amount due or to obtain fulfilment of any obligation incumbent on the Supplier.

18.4 The Buyer shall at all times be entitled to terminate all or part of the Agreement by serving written notice. In such case, the Buyer shall reimburse the Supplier only the expenses incurred prior to the termination, plus a reasonable amount for overheads and profits.

**C. SUPPLEMENTARY PROVISIONS**

**Article 19. Intellectual property**

19.1 The Supplier grants the Buyer a non-exclusive, irrevocable licence, subject to any intellectual property and other exclusive rights regarding the Products supplied. Pursuant to this licence, the Buyer shall have the right to use and apply, in the course of the Buyer's own business, the inventions and know-how incorporated into the Products to the extent these are protected by the rights referred to, including the right to repair the Products and/or to cause them to be repaired, and the Buyer shall also be authorised to supply the Products to third parties, whether or not the Products are supplied to the third parties as a component of other goods. The fee for this licence is included in the price.

19.2 The Supplier warrants that the Products do not infringe the intellectual property rights of any third parties and shall indemnify the Buyer, companies affiliated with the Buyer and the Buyer's clients and customers for all costs, loss or harm that may arise as the result of any infringement or alleged infringement of such rights.

19.3 The Supplier shall supply the specification (full description) of the parts or materials to be listed in the Order to the Buyer.

The Buyer may approach another Supplier with those parts or materials.

**Article 20. Confidentiality**

20.1 The Supplier is required to observe strict confidentiality with regard to all information relating to the Buyer's business that he/she/it may obtain in connection with the Agreement



or the performance thereof, including the nature of, the reason for and the result of the work the Supplier performs.

**Article 21. Disputes**

21.1 All disputes (including issues that may be considered disputes by only one of the parties) that may arise in relation to the Agreement or any additional Agreements ensuing therefrom, shall be submitted for litigation to the competent court in Rotterdam, the Netherlands.

**Article 22. Compulsory Identification Act (WID) and Aliens Employment Act (WAV)**

22.1 The Supplier and the Supplier's staff (including any third parties appointed by the Supplier, including those employed with the permission of the Buyer) shall comply with all regulations pursuant to the Dutch Compulsory Identification Act (WID) and the Dutch Aliens Employment Act (WAV). The Supplier shall inform the Supplier's staff of the regulations contained in the WID and WAV, as well as the obligations listed in the present Article.

22.2 The Supplier's staff shall always be able to produce valid identity papers (including at the workplace) and, in so far as applicable, a valid work permit. The Buyer may periodically check whether this is the case (on a sampling basis). If the member of staff is unable to produce the required document, the Buyer shall refuse admission to the work, or remove the member of staff from the work (or instruct another to do so). If the Buyer incurs damage as a result, this damage will be retrieved in full from the Supplier.

- h. applicable quality standards (CE, NEN, ISO, VCA, CROW, BRL, etc.);
- i. location where the work will be performed;
- j. purchase order number / reference number;
- k. Specification of the Services to be performed and/or Products to be supplied or reference to the description in the tender;
- l. parts and/or materials as referred to in Article 19.3;
- m. accompanying documents, certificates, manuals etc.
- n. Where applicable, the Buyer requires fulfilment of the following obligation: "The Supplier will supply a 'CO<sub>2</sub> footprint' indicating its scope 1 and 2 CO<sub>2</sub> emissions in accordance with ISO 14064-1 to the Buyer annually. The Supplier will also supply a verification statement relating to the CO<sub>2</sub> footprint. Verification shall be conducted by an independent certification organization in accordance with ISO 14064-3 with a 'limited degree of assurance'. The certification organization shall have ISO 14065 accreditation from Accreditation Council ('Raad van Accreditatie') or a member of the International Accreditation Forum."

Certification at level 3 or higher on the CO<sub>2</sub> Performance Ladder will also be considered adequate for the purposes of verification. In that case, the Supplier shall submit a valid certificate to the Buyer annually. The costs relating to the drafting of the CO<sub>2</sub> footprint, for the verification and/or CO<sub>2</sub> ladder certification shall be for the account of the Supplier.

**Annex 1**

The Orders shall be dated and numbered and will in any case contain:

- a. a description of the work to be performed (the "Services");
- b. a description of the Parts and/or Materials to be supplied (the "Products");
- c. SHE-Q requirements, all necessary information and background documents from the seller / supplier (RIE, SHE-Q plan etc.);
- d. the performance schedule / delivery term (the "Performance Schedule");
- e. the date(s) for payment;
- f. in so far as applicable, the required qualifications for employees to be deployed by the Supplier;
- g. coordinator or purchaser acting on behalf of Boskalis;