

USG General Terms of Purchase 2011

These General Terms of Purchase are applicable to, and form part of, every quotation inquiry, quotation, order and Purchase Order. The Buyer does not accept the applicability of other general terms and conditions of the Supplier, which are hereby expressly rejected.

1. Definitions

In this document, **Contract** shall mean the binding contract as described in Article 2; **Buyer** shall be the legal person originating the Purchase Order, order or quote inquiry; and **Goods** shall mean the items, products, materials, fluids, apparatus, patterns, software, hired items, stored items and all related documentation to be supplied, as specified in the Purchase Order. A **Purchase Order** shall be an order issued by a Buyer, including all related documentation; **Services** shall be the services to be provided, their results and/or all related materials as specified in the Purchase Order. **Supplier** shall be the legal or natural person who enters into a contract with the Buyer.

2. Acceptance

Together with the Buyer's Purchase Order, these General Terms of Purchase shall constitute the conditions of the Supplier's delivery of Services and/or Goods to the Buyer. They shall be binding on the Parties after acceptance by the Supplier (the binding Contract). Amendments by the Supplier shall only be binding if accepted in writing by the Buyer. Execution of part of a Purchase Order by the Supplier shall count as the Supplier's unconditional acceptance of such Purchase Order.

3. Commercial terms

3.1 The Supplier shall supply the Goods and/or execute the Services at the prices stated in the Contract. Unless expressly otherwise agreed, such prices shall be (i) firm, (ii) exclusive of any VAT but (iii) inclusive of all other taxes, duties, levies and remuneration amounts (including licensing royalties), and inclusive of all costs.

3.2 The Buyer may arrange for any other legal person, affiliated with USG, to make the payment owed by the Buyer. Such payment shall constitute release for the Buyer. The Supplier shall not be entitled to defer its obligations if an invoice is contested.

The Buyer shall be entitled to offset amounts owed to the Supplier against amounts owed by the Supplier to the Buyer.

3.3 Where the Services are performed against remuneration for hours worked and costs incurred, the Supplier shall keep records of all costs, expenditure and hours worked, and allow the Buyer to inspect it.

4. Compliance

4.1 The Supplier shall guarantee to act in conformity with all applicable national and international laws, regulations, norms and standards, directives and codes relating to the performance of the Contract. This shall include all applicable laws and regulations governing international trade, such as embargoes, import and export restrictions, and sanctions lists.

4.2 The Supplier shall guarantee that it holds all rights to the Goods, Services or parts thereof which are necessary to implement the Contract. The Supplier shall be fully authorized to control and dispose of the Goods, shall be in possession of all licences, permits, end-user declarations and all other documents required in the countries of origin, transit and destination, in order to fulfil its obligations, and shall notify the Buyer immediately of any legal restrictions.

5. Delivery time

The Supplier shall guarantee to deliver the Goods and/or Services without delay or interruption and immediately inform the Buyer of any foreseen delay.

6. Delivery, acceptance and warranty of Goods

6.1 Unless expressly agreed otherwise, the Goods shall be delivered according to Incoterms DDP at the Buyer's location.

6.2 Delivery shall take place in sound packing. The Supplier shall take back valuable and reusable packing. The Supplier shall promptly supply to the Buyer (copies of) all applicable licences, permits, documents, information, specifications and instructions necessary for the safe and correct carriage, usage, handling, processing and storage of the Goods and of all usable certificates.

6.3 The Supplier shall warrant that the Goods conform to the specifications and requirements of the Purchase Order, are in working order, unused, made with good materials and workmanship, free of all defects, in no way encumbered, free of pledge

and possessory lien, and fit for the intended purpose, insofar as this is known to the Buyer. The warranties in the Contract shall extend to the Buyer and its buyers.

6.4 Within two years of the date of acceptance or commissioning, if later, the Supplier shall repair or replace Goods or parts thereof which do not function properly or become defective. Repaired or replaced Goods or parts thereof shall be warranted for a further two-year period from the date of repair or replacement.

As far as possible, the Supplier shall make such Goods available for the Buyer's use until the Buyer shall receive replacement Goods. The warranty period shall be extended by the period(s) during which the Goods were out of operation.

6.5 The Buyer shall be entitled to refuse all Goods delivered (i) not at the agreed time, (ii) not in the contracted volumes and/or quantities, (iii) in unsound or damaged packing or (iv) with one or more defects. The return of such Goods shall be at the Supplier's risk and expense, without prejudice to the Buyer's right to compensation for the loss and costs incurred as a result of the Supplier's breach of its obligations.

6.6 Performance or otherwise of an inspection or test shall not release the Supplier from its obligations and warranties.

7. Performance and acceptance of Services

7.1 The Supplier shall warrant the quality and results of the Services. The Supplier shall carry out the Services in conformity with the requirements and specifications of the Contract, having regard to such degree of expertise, care and workmanship as may reasonably be expected, and using sound and well-maintained materials and sufficiently qualified personnel.

7.2 The Supplier shall instruct the Buyer promptly and adequately on how to use the Services.

7.3 The Services shall be accepted solely and exclusively by the Buyer's written confirmation to this effect.

8. Transfer of title

8.1 The Buyer shall become the owner of the Goods, results and materials forming part of the Services on delivery thereof at the place designated in the Contract. If a Contract prescribes payment in advance, title shall pass to the Buyer after such payment, and the Supplier shall mark and identifiably store the raw materials, materials and semi-finished products intended for the production/manufacture of the Goods,

and the finished Goods. The risk of such Goods shall remain with the Supplier until the time of acceptance.

8.2 Title and risk pertaining to the Goods supplied under a hire agreement shall remain with the Supplier.

8.3 The Buyer shall retain title to Goods stored under a contract of storage. The risk pertaining to such Goods shall pass to the Supplier on receipt of the Goods and end on delivery thereof to the Buyer.

9. Inspection

9.1 The Supplier shall ensure that the Buyer or its representative has the opportunity of inspecting the Goods or the process of manufacture of the Goods and/or a place where all or some of the Services are executed.

9.2 The Supplier shall carefully manage and control the quality of the Goods and Services and the process of manufacture and delivery. The Supplier shall ensure that the Buyer or its representative has the opportunity of attending inspections of the Goods and/or of inspecting the Goods themselves.

9.3 Inspection and/or testing shall not release the Supplier from any obligation or liability under the Contract.

10. Checked modifications

The Buyer's prior written consent shall be necessary to apply modifications to all or parts of the Goods and/or to the (execution of) the Services, including business and other processes, raw and other materials and/or any other modifications which may affect the specifications of the Goods and/or Services. The Supplier shall inform the Buyer well in advance of such modifications and enable the Buyer to check and test the Goods.

11. Chemicals

The Supplier shall warrant that it is wholly familiar with EC Regulation No 1907/2006 concerning the Regulation, Evaluation, Authorization and Restriction of Chemicals ("REACH") imported into, or distributed or used in, the European Union. The Supplier shall warrant that, if and insofar as applicable, the Goods or substances contained therein fully comply with the REACH requirements. The Supplier shall pass the (pre-)registration number(s) to the Buyer. If the Goods or substances contained therein fall

under other national or international regulations which restrict the use of chemicals, the Supplier shall warrant that such Goods or substances contained therein are fully compliant with such regulations.

12. Sustainability, HSE and security

12.1 The Triple P values (People, Planet, Profit), as established in the USG Code of Conduct, are of fundamental importance to the Buyer. The Supplier declares that it will follow the Code of Conduct published on the USG website www.usgbv.com, and which will be forwarded on request.

12.2 The Supplier shall comply, and act in accordance, with all applicable health, safety and environmental regulations. The Supplier shall avoid polluting the soil and groundwater, limit the nuisance from smell and noise at the Buyer's location, and comply with the (network) security regulations in force at the Buyer's location. The Supplier shall ensure good and safe carriage, good and safe apparatus and trained and qualified personnel who speak the Buyer's local language and/or English and work in a safe, healthy and environmentally responsible way. The Buyer shall be entitled to check these aspects of the Contract. The Supplier shall report any health, safety, environmental or security irregularity.

In the event of incident, the Supplier, under USG supervision, shall immediately take all measures to clean up or isolate the released substances or prevent contamination resulting from such incident.

13. Liability and compensation

13.1 The Supplier shall be liable to the Buyer and indemnify the Buyer and its affiliates, including directors and employees (hereinafter collectively referred to as the "Indemnified Parties") against all damage, loss, (personal) injury (including death), costs and claims incurred by, or imposed on, the Indemnified Parties and deriving from, or connected with the Contract, its performance and the use and/or sale of the Goods and/or the use of the Services by the Buyer, the Buyer's affiliates or any third party, where such damage, loss, (personal) injury, expenditure, cost, fine, penalty or liability does not result from wilful misconduct or gross negligence on the part of the Buyer or its affiliates.

13.2 The Supplier shall be fully liable for correct and prompt payment of all taxes and levies payable in connection with the Contract performance. The Supplier shall indemnify the Indemnified Parties against all claims and payments relating to its

obligations relating to taxes, contributions and any claims of third parties, including government.

13.3 The Buyer shall in no case be liable for any direct or indirect loss based on, or deriving from, the Contract.

13.4 Neither party shall be liable to the other for failure to fulfil the Contract if, and insofar as, fulfilment thereof is delayed, impeded or prevented by any cause beyond the relevant party's control, and such cause is not, or ought not to be, for that party's risk, provided that such party was already in arrears with the obligations which are delayed, impeded or prevented. The sole fact of late delivery of materials or facilities to the Supplier or its suppliers or staff shortage shall not be treated as force majeure. If a situation of force majeure lasts longer than 30 days, the Buyer shall be entitled to terminate the Contract, in whole or in part.

14. Secrecy

All information provided by, or on behalf of, the Buyer and information developed in the context of the Contract shall be treated as confidential. The Supplier shall only use it for the purpose of this Contract. The disclosure of information shall only be permitted to the employees of the Supplier and its suppliers if, and insofar as, necessary to the performance of the Contract. The Supplier shall immediately return the information to the Buyer on request, without keeping a copy. If the Supplier receives a judicial order, or is bound by law to disclose the information, the Supplier shall immediately notify the Buyer accordingly. The Supplier shall treat the Contract's existence as confidential. The Supplier or its employees shall sign a separate secrecy undertaking on request.

15. Ownership and intellectual property rights

15.1 All information furnished to the Supplier, including specifications and materials, shall remain the Buyer's property. The Supplier shall not be entitled to use, or refer to, any intellectual property right belonging to the Buyer or one of its affiliates, without the Buyer's prior written consent. Authorized use shall take place in strict compliance with instructions, and for the stated purposes.

15.2 The Supplier shall warrant that the supply of the Goods and/or the use of the Services, the sale or application thereof by the Buyer shall not infringe, or constitute unlawful use of, any intellectual property right of a third party.

15.3 The Buyer shall be entitled to all intellectual property rights arising as a consequence of implementation of the Contract, and the Supplier shall transfer them to the Buyer.

15.4 All intellectual property rights to software developed for, or on behalf of, the Buyer, including source code and documentation, shall vest in, or be transferred to, the Buyer. Intellectual property rights to other software shall continue to vest in the Supplier, and the Supplier shall grant the Buyer a non-exclusive, non-transferable, irrevocable, permanent and free licence not limited to specific apparatus or locations.

16. Insurance

The Supplier shall take out and maintain insurance policies which shall be sufficient to cover the risks of the Contract and its execution. At the Buyer's request, the Supplier shall provide it with the insurance certificates and keep it informed of any amendments.

17. Termination and suspension

The Buyer shall be entitled to suspend fulfilment of its obligations, in whole or in part, or to terminate the Contract with immediate effect, without prejudice to its right to compensation, and without any obligation to indemnify the Supplier, as follows: (i) in the event that the Supplier has failed to pay its debts, is subject to a stay of payments or has applied for one, is declared bankrupt, has ended or suspended all or a significant part of its activities, or is in a similar situation; (ii) in the event of non-compliance with orders relating to the import, export or restriction of the use of chemicals, or the provisions concerning health, safety, the environment and security; (iii) in the event of unapproved amendments in accordance with Article 10.

After such termination, the Buyer may return all or part of the Goods and/or Services received, against repayment and transfer of title to the Supplier.

18. General

18.1 If a provision of these General Terms of Purchase or the Contract is, or becomes, invalid, the other provisions shall remain in force notwithstanding. The Parties shall replace the invalid provision(s) with a provision of equivalent meaning, which shall approximate, as closely as possible, the meaning of the original provision.

18.2 The fact that one party does not require the other party to comply strictly with an obligation under these General Terms of Purchase or of the Contract shall in no way affect its right to insist on fulfilment of any obligation at any time. If a party waives its right to compliance, such waiver shall not be deemed to relate to earlier or subsequent default by the other party. A waiver of compliance shall only be given in writing. It shall be unconditional, and state the specific right being waived.

18.3 The Supplier shall not be entitled to assign the Contract, in whole or in part, without the Buyer's written consent. Such consent shall not release the Supplier from the Contract, and shall be granted subject to fulfilment of all obligations thereunder.

18.4 Nothing in the Contract shall be construed as creating an agency, joint venture or relationship of employment between the parties.

18.5 This Contract shall be governed exclusively by Dutch law, to the exclusion of the rules of private international law, which might lead to the application of another country's law. The United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980 (the Vienna Sales Convention) shall not apply. Any carriage of Goods to or from a place of storage, which can form part of the Services, shall comply with the provisions of the Convention on this mode of transport.

18.6 Any dispute shall be referred, in the first instance, for decision by the competent court of Maastricht. A pending dispute shall release neither party from its obligations under the Contract, except those obligations directly connected with the dispute.

18.7 Termination of the Contract on any grounds whatsoever shall not affect the rights and obligations which expressly, or by their nature or content, bring about permanent obligations, such as undertakings, warranties, confidentiality obligations, intellectual property rights and rights and obligations which have arisen during the term of the Contract.

These General Terms of Purchase have been filed at the commercial registry of the Limburg Chamber of Commerce under no. 14071112.