

A. GENERAL PROVISIONS

Article 1. Definitions

In these General Terms and Conditions of Purchase of Schenk, the following terms are written with initial capitals and will be understood to have the meanings assigned to them below:

- 1.1. **Agreement:** the agreement and/or legal relationship, including subsequent agreements, between Schenk and the Supplier to which these terms and conditions apply. Including in any case any agreement relating to the Performance by the Supplier.
- 1.2. **Confidential Information:** all information originating from Schenk (including ideas, knowledge, trade secrets, sensitive company information, data, procedures, substances, samples and the same) that comes to the Supplier's knowledge in the context of (the performance of) the Agreement, and which is clearly marked as confidential or which the Supplier should understand to be confidential.
- 1.3. **Party or Parties:** Schenk and/or the Supplier, depending on the context.
- 1.4. **Performance:** the performance to be rendered by the Supplier under the Agreement, consisting of: (a) the delivery of goods, including but not limited to trucks, trailers and containers, (b) the performance of services, (c) the loaning or assignment of personnel and/or self-employed persons, and/or (d) other work and related activities carried out for the benefit of Schenk.
- 1.5. **Schenk:** SSPL B.V. having its registered office in Papendrecht, the Netherlands and its principal place of business at Burgemeester Keijzerweg 6 (3352 AR) Papendrecht, the Netherlands, registered in the Dutch Trade Register of the Chamber of Commerce under number 83879358 and/or all its affiliated entities and/or persons who make use of these Terms and Conditions, including but not limited to: Schenk Papendrecht Beheer B.V., Schenk Papendrecht B.V., Schenk Trading & Services B.V., Schenk Intermodal B.V., Schenk Tanktransport Belgium N.V., Schenk Tanktransport N.V., Schenk Liquid Logistics N.V., Schenk Food N.V., Schenk Luxembourg S.A. and SchenkTanktransport GmbH.
- 1.6. **Supplier:** the counterparty of Schenk to an Agreement or each natural person or legal entity with which Schenk negotiates regarding an Agreement.
- 1.7. **Terms and Conditions:** these General Terms and Conditions of Purchase of Schenk.

Article 2. Applicability

- 2.1. These Terms and Conditions are – to the express exclusion of the terms and conditions of the Supplier - applicable to the legal relationship between Schenk and the Supplier, including but not limited to all (future) request, quotations, offers, assignments, (purchase) orders, order confirmations, ancillary agreements, subsequent agreements and other legal acts relating to the formation or performance of the Agreement, even if the Performance to be delivered is not (further) specified in these Terms and Conditions.
- 2.2. Any amendment or supplementation of the agreement shall only bind Schenk after the written confirmation by Schenk.
- 2.3. If any provision of the Agreement conflicts with or differs from any provision of these Terms and Conditions, the provision of the Agreement shall prevail.
- 2.4. By entering into the Agreement, the Supplier declares to have received these Terms and Conditions from Schenk in a timely manner. The applicability of any (standard) terms of the Supplier is hereby explicitly dismissed.

- 2.5. Schenk shall be entitled to unilaterally amend these Terms and Conditions (i.e., without the Supplier's consent), in which case the amended version of these Terms and Conditions shall apply to the Agreement.

Article 3. Formation of the Agreement

- 3.1. Unless a longer period of validity is indicated, Supplier's offers are valid until at least three (3) months after their receipt by Schenk. An offer or quotation of the Supplier is irrevocable.
- 3.2. If the Supplier submits its quotation or its offer as part of a tender procedure, Supplier shall maintain its quotation or its offer and the prices stated therein for the period as required by the contracting party.
- 3.3. The Agreement shall only come into effect if the Supplier's quotation or offer is accepted in writing on behalf of Schenk by a person authorised to do so. Schenk's written order confirmation, whether in the form of a purchase order or otherwise, shall be leading. If there is any discrepancy between the quotation or offer of the Supplier and the order confirmation of Schenk, the latter shall prevail.
- 3.4. All costs involved in the preparation of a quotation or offer shall be borne by the Supplier.
- 3.5. If, in the performance of the Agreement, the Supplier makes use of the drawings, models, specifications, inspection regulations and requirements or similar documents or information provided or approved by Schenk, such documents and information shall without limitation form an integral part of this Agreement.
- 3.6. The Supplier guarantees its submitted quotation or offer has been prepared independently and without any agreement or concerted practice with third parties that would restrict or distort competition and/or result in prices being or having been increased.
- 3.7. The Agreement does not entitle the Supplier to any follow-up agreements.

Article 4. Prices

- 4.1. Unless expressly agreed otherwise in writing, the prices agreed in the Agreement are exclusive of value added tax (VAT), are stated in the Euro currency and include all costs to be incurred, including, but not limited to, costs of packaging, loading, transport and unloading of goods, of insurance, (import) duties, surcharges, exchange rate increases and other charges imposed on Schenk in connection with the (import and delivery of the) goods.
- 4.2. The prices agreed in the Agreement are fixed and may not be unilaterally adjusted or indexed by the Supplier.
- 4.3. Schenk shall be entitled to set off its claims against the Supplier, including costs related to traffic fines and/or levies and/or damages caused by the Supplier (and/or its personnel and/or any third parties engaged by it).

B. PERFORMANCE OF THE AGREEMENT

Article 5. Delivery of goods

- 5.1. Delivery of goods shall take place in the manner and at the time, as well as in the description, quality and quantity, specified in the statement of requirements, order and/or quotation, taking into account any written amendments made after the date of the statement of requirements, the order and/or quotation.
- 5.2. Unless otherwise agreed in writing, delivery will take place on the agreed delivery date(s) or within the agreed delivery period(s) at the delivery address and delivery location

specified in the Agreement. The agreed delivery time(s) or period(s) shall at all times be deemed a strict deadline as referred to in Article 6:83(a) of the Dutch Civil Code (*BW*). Supplier shall be in default by operation of law without notice of default upon exceeding an agreed delivery deadline.

- 5.3. Unless otherwise agreed in writing, the Supplier is not entitled to make partial deliveries. If partial deliveries have been agreed upon, such partial delivery shall also be deemed delivery for the purposes of Terms and Conditions.
- 5.4. Unless otherwise agreed in writing, Schenk is not obliged to make any payments to the Supplier before the goods have been delivered.
- 5.5. Delivery earlier than the agreed delivery date(s) or period(s) will take place only after prior written consent from Schenk and will not alter the agreed payment date.
- 5.6. The Supplier will bear all costs and risks connected with transportation, including, where applicable, the import duties and responsibility for complying with the associated formalities. Delivery shall even take place entirely at the Supplier's risk and expense, even if the Supplier uses the services of the staff of Schenk in performing any aspect of the delivery.
- 5.7. Delivery shall also include the delivery of all associated tools and all related documentation.
- 5.8. If Schenk requests the Supplier to postpone or to defer delivery, the Supplier is obliged to store, secure, and insure the goods properly and clearly designated for Schenk. The Supplier shall only be entitled to additional remuneration if prior written agreement has been reached with Schenk.
- 5.9. Delivery shall be deemed completed at the moment the goods have been received by or on behalf of Schenk and signed for in writing by Schenk as proof of receipt. Such signature shall not affect Schenk's right to reject the delivered goods pursuant to Article 7 of these Terms and Conditions.
- 5.10. Schenk guarantees that any design drawings, working and detail drawings, models, photographs, samples, designs, logos, specified dimensions, quantities, designs, colours, materials, and/or other data provided to the Supplier are accurate and adequate and may therefore be used without further investigation. The Supplier shall verify the accuracy of the information provided by Schenk prior to performing the Agreement.
- 5.11. The Supplier guarantees that the goods to be delivered comply with the statement of Requirement, statutory requirements and the other requirements set forth in the Agreement and with due observance of the usual requirements of proper and good workmanship. At Schenk's first request, the Supplier shall provide written evidence demonstrating that the goods to be delivered comply with the aforementioned requirements.

Article 6. Performance of services

- 6.1. The services to be performed by the Supplier must comply with the Agreement, and the Supplier shall exercise the due care of a diligent contractor in the performance of such services. The services shall be performed in the manner and at the time specified in the Agreement or – if not specified therein – in accordance with the instructions of Schenk.
- 6.2. The agreed time or term for the performance of services shall at all times be deemed a strict deadline within the meaning of Article 6:83(a) of the Dutch Civil Code (*BW*). The Supplier shall be in default by operation of law upon exceeding an agreed (performance) term.
- 6.3. The provision of services shall be deemed completed once Schenk has confirmed in writing that the services have been approved.

Article 7. Inspection

- 7.1. Schenk, or persons or entities designated for that purpose by Schenk, shall at all times be entitled to inspect or have inspected the Performance to be carried out (or already carried out) by the Supplier, or to verify whether the Performance complies with the Agreement. The Supplier shall be obliged to provide its full cooperation in such inspection. If the inspection reveals that the Supplier has failed to fulfil its obligations under the Agreement, the Supplier shall be required to fully reimburse Schenk for all inspection costs incurred.
- 7.2. Regardless of whether Schenk has availed itself of the rights stipulated in article 7.1, and regardless of the outcome of the examinations and tests, the Supplier shall always remain fully responsible for the proper performance of the Agreement. The approval of the Performance by or on behalf of Schenk does not entail any recognition that the Performance complies with Agreement.
- 7.3. If Schenk rejects the Performance, the Supplier is obliged, without prejudice to all other rights or claims of the Schenk, to provide without delay, at its own expense and risk, a missing, repaired or replacement product or new service for a new Inspection. The provisions of article 5 apply in full. Rejection by Schenk during the first or previous Inspection will not lead to the agreed delivery period being extended.
- 7.4. Unless expressly agreed in writing otherwise, Schenk shall inspect the goods or assess the services within a reasonable time of their being delivered or performed, respectively. If that inspection indicates that the goods or services are inconsistent with the Agreement, Schenk shall reject and return the goods or reject the services or shall accept the goods and/or services at a lower price.
- 7.5. The inspection shall not preclude Schenk from claiming the Supplier's non-performance of his warranty obligations stipulated in Article 11 or of any other obligations the Supplier may have to the Schenk. The provisions of Articles 7.1 to 7.3 are without prejudice to the Supplier's liability under the Agreement or the law. Sections 6:89 and 7:23 Dutch Civil Code (*BW*) shall not apply.

Article 8. Transfer of ownership and risk

- 8.1. The ownership and risk in of the goods shall pass from the Supplier to Schenk at the moment of delivery or payment, whichever is earlier. The Supplier shall bear the risk of harm to or loss of the goods until the time at which the goods are delivered to and accepted by Schenk. In case the goods are rejected by Schenk during or after delivery in accordance with Article 5 of these Terms and Conditions, ownership and risk of the goods shall remain with the Supplier, or – in the event of rejection after delivery – shall be deemed never to have passed to Schenk.
- 8.2. The Supplier guarantees that Schenk shall obtain unencumbered ownership to the goods and that no retention of title (by any third party) shall apply to the goods at the time of delivery to Schenk.
- 8.3. Schenk shall remain the owner of all goods made available to the Supplier in connection with the Agreement. 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 good to be delivered under the Agreement, Schenk shall, contrary to the provisions of Articles 8.1 and 8.2 acquire ownership of that good by operation of law without any further act of delivery being required. This provision shall not prejudice the provisions regarding risk contained in Article 8.1 and 8.2, which shall remain in full force and effect.

- 8.4. The Supplier shall, at his own expense and on behalf of Schenk, ensure that all of the goods that he receives from Schenk 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.

Article 9. Invoicing and payment

- 9.1. Schenk shall not owe payment until the Agreement has been performed in full, unless expressly agreed in writing otherwise. If it has been agreed that, for the purpose of performing the Agreement, Schenk should make one or more payments prior to full performance of the Agreement, Schenk may require the Supplier to issue Schenk with an on-demand bank guarantee issued by a bank approved by Schenk prior to making the payment(s) in question, to the value of the payment(s) in question. Schenk is not required to pay any of the cost of the guarantee.
- 9.2. The Supplier will invoice Schenk for the Performance at the agreed prices. The Supplier's invoices must comply with the Agreement and applicable laws and regulations, expressly including, but not limited to, the requirements set out in the Dutch Turnover Tax Act 1968 (*Wet op de Omzetbelasting 1968*) and must, in addition, contain at least the name of the contact person.
- 9.3. The Supplier will send the invoice electronically in accordance with the specifications issued by Schenk. The Supplier shall ensure that Schenk actually receives the electronic invoices. Schenk shall be entitled, at any time, to require the Supplier to also submit, or exclusively submit, invoices by post.
- 9.4. The Supplier's invoice must be received by Schenk no later than three (3) months after completion of the Performance, provided that such Performance has been approved by Schenk, failing which the Supplier shall forfeit its right to payment. Payment of the invoices submitted by the Supplier shall be made within sixty (60) days of receipt of the invoice.
- 9.5. The Supplier shall never be entitled to transfer its claims against Schenk to any third party, unless expressly agreed otherwise in writing or permitted by law.
- 9.6. If the Supplier fails to perform any obligation under the Agreement, whether wholly or in part, or performs it inadequately, Schenk shall be entitled to suspend any payment obligation to the Supplier with immediate effect.
- 9.7. Payment by Schenk shall in no event constitute recognition or waiver of any rights.
- 9.8. Schenk shall at all times be entitled to set off claims of the Supplier against Schenk with any claims that Schenk and/or any of its affiliated entities may have against the Supplier, on any grounds whatsoever.
- 9.9. All costs incurred by the Supplier in connection with the performance of the Agreement shall be borne by the Supplier.
- 9.10. With regard to any statutory interest potentially owed by Schenk, the Parties agree, in deviation from Article 6:119a of the Dutch Civil Code (*BW*), that in commercial transactions any applicable default interest shall not exceed the statutory interest referred to in Article 6:119 of the Dutch Civil Code (*BW*), as applicable on the agreed due date for payment, subject to a maximum of 5% per annum.

Article 10. Amendments

- 10.1. Schenk shall be entitled to amend the Agreement with respect to the scope and/or nature of the Performance to be delivered, including modifications in quantity, specifications and the like.

- 10.2. If, in the opinion of the Supplier, such amendment affects the agreed price, delivery time, performance period and/or quality, the Supplier shall inform Schenk thereof in writing as soon as possible, but no later than ten (10) working days after notification of the requested amendment. Failing such notification, the amendment shall be deemed accepted by the Supplier, and the Supplier shall forfeit any right to an adjustment of the agreed price.
- 10.3. If the Supplier timely notifies Schenk that the requested amendment affects the price and/or delivery time and/or performance period and Schenk considers such consequences to be unreasonable, Schenk shall be entitled to terminate the Agreement with immediate effect by written notice to the Supplier, unless such termination would be manifestly unreasonable given the circumstances. Termination pursuant to this Article 10.3 shall not entitle the Supplier to any compensation, and any Performance already rendered shall be settled proportionally, unless the Performance already rendered or part thereof has no independent value for Schenk.
- 10.4. The Supplier shall only be permitted to make or implement changes in the performance of the Agreement with the prior written consent of Schenk.

Article 11. Warranty and non-performance

- 11.1. The Supplier warrants (*garandeert*) that the Performance shall conform to the Agreement. This warranty includes, at minimum, that:
- (a) the Performance possesses the characteristics promised by or on behalf of the Supplier.
 - (b) the goods are new, free from third-party rights, and free of defects in design, construction, assembly and material.
 - (c) the Performance is suitable for the purpose for which the Agreement was concluded.
 - (d) the services will be performed competently, continuously, and in accordance with the standards of good and proper workmanship.
 - (e) the Performance complies with all applicable (European) statutory and regulatory requirements, including those relating to quality, health, safety, the environment, and advertising.
 - (f) the Performance is free of any special encumbrance or restriction that Schenk has not accepted explicitly and in writing. The Supplier indemnifies Schenk against all claims in this regard.
 - (g) the goods are marked with the name of the manufacturer or the party placing the goods on the market, and
 - (h) the goods are provided and accompanied by all data and instructions necessary for proper and safe use.
- 11.2. If the Performance – regardless of the results of any prior inspections – fails to comply with Article 11.1 of these Terms and Conditions, the Supplier shall, at its own expense and at Schenk's discretion, repair, replace or supplement the Performance upon first request by Schenk, unless Schenk prefers termination of the Agreement in accordance with Article 14 of these Terms and Conditions, without prejudice to any other rights of Schenk arising from such breach, including the right to claim damages. All costs arising in this context (including costs for transport, repair and dismantling) shall be borne by the Supplier.
- 11.3. In urgent cases, or in cases where it may reasonably be assumed after consultation with the Supplier that the Supplier will fail to fulfil its warranty obligations, Schenk shall be

entitled to carry out or have carried out the necessary repairs or replacements at the expense of the Supplier. This shall not release the Supplier from its obligations under the Agreement and these Terms and Conditions.

- 11.4. As soon as the Supplier knows or ought to know that it will fail to perform the Agreement, it shall immediately notify Schenk thereof in writing, stating the reasons. In such cases, Schenk shall be entitled to exercise its rights under the Agreement and the law without delay.
- 11.5. If Schenk fails to demand compliance with any provision within a time limit set by the Agreement or these Terms and Conditions, this will not affect its right to demand compliance at a later date, unless Schenk has expressly accepted the non-compliance in writing.
- 11.6. Unless otherwise agreed in writing, a warranty period of five (5) years shall apply from the date the Performance is delivered or completed, provided that if Schenk has agreed with third parties to a longer warranty period, or if a longer manufacturer's warranty applies, such longer term shall apply between Schenk and the Supplier.
- 11.7. Any agreed warranty period shall recommence upon acceptance of a repair performed under warranty, or upon replacement or supplementation of the Performance under warranty, unless otherwise agreed in writing.

Article 12. Liability and insurance

- 12.1. The Supplier shall be liable for all damage suffered by Schenk and/or third parties, regardless of whether such damage was caused by a breach of the Supplier's obligations or results from any other act or omission by the Supplier, its personnel, or third parties engaged by it, insofar as this relates to the performance of the Agreement. The Supplier's liability includes both direct and indirect damage, as well as consequential damage. This shall include (but is not limited to) business interruption losses, delay damages, damage arising in the legal relationship between Schenk and third parties, environmental damage, damage to materials, equipment, personal property of employees and other goods, bodily injury, and legal and extrajudicial costs.
- 12.2. The Supplier shall indemnify Schenk against all claims from third parties in connection with the Agreement entered into between Schenk and the Supplier.
- 12.3. If multiple Suppliers have jointly submitted an offer or jointly entered into the Agreement, they shall be jointly and severally liable to Schenk for all obligations arising from the Agreement and the cooperative arrangement, as well as for the payment of damages if they fail to meet the agreed obligations fully, timely or properly, and for the damages referred to in this article.
- 12.4. The Supplier shall ensure that it is adequately insured against the liability referred to in this article and shall provide Schenk, upon request, with access to the relevant insurance policy. This shall mean an insurance policy with adequate coverage taken out with an insurance company established in the Netherlands. The insurance must provide a minimum coverage of € 2.500.000,00 per event and shall not exceed a deductible of € 10.000,00 per event. This insurance obligation also extends to personnel and resources involved in the execution of the Agreement in any capacity. Related events will be treated as a single event.
- 12.5. Even if the insurance does not provide coverage in a specific case or the damage caused by the Supplier is not covered, the Supplier's liability shall remain fully in effect for the entire amount of the damage.

- 12.6. Schenk shall not be liable for any damage suffered by the Supplier, or third parties involved in the performance of the Agreement, unless such damage is the direct and obvious result of intent or deliberate recklessness on the part of Schenk or its executive subordinates.
- 12.7. In the event of the Supplier's bankruptcy, Schenk shall be entitled to charge and offset 10% of the price agreed in the Agreement against the Supplier's claims as compensation for the fact that, as a result of the Supplier's bankruptcy, Schenk will be unable to enforce its contractual and/or statutory (warranty) claims in relation to the Performance, without prejudice to Schenk's right to full or additional compensation.

Article 13. Force Majeure

- 13.1. Force majeure on the part of the Supplier shall in no event include: shortage of staff or suppliers, staff illness, strikes, transport problems, price increases, non-performance by third parties including subcontractors engaged by the Supplier, failure of auxiliary materials, liquidity or solvency issues on the part of the Supplier, weather conditions, fire, floods, disasters, (threats of) war situations, pandemics, government measures or market conditions resulting in shortages or increased costs of raw materials, materials, or labour for the Supplier.
- 13.2. The Supplier may only invoke force majeure if it immediately notifies Schenk in writing, providing supporting evidence and a detailed explanation of nature, cause, expected duration, and consequences of the force majeure event. The Supplier may not invoke force majeure if the circumstance preventing (further) performance arises after the Supplier should have fulfilled its obligation.
- 13.3. In the event of force majeure on the part of either Schenk or the Supplier, performance of the Agreement shall be suspended in whole or in part for the duration of the force majeure situation, without either Schenk or the Supplier being liable for any damages in that regard.
- 13.4. If the force majeure situation lasts longer than thirty (30) days, the other Party shall have the right to terminate the Agreement immediately and without judicial intervention by means of a registered letter, without any right to damages arising therefrom.
- 13.5. If the Supplier has already partially fulfilled its obligations at the onset of the force majeure event, or can only partially fulfil its obligations, it shall be entitled to invoice the already delivered portion separately, provided that portion has independent value and Schenk has derived benefit from that value.

Article 14. Termination and dissolution

- 14.1. Without prejudice to the other provisions of the Agreement, these Terms and Conditions and the applicable law, Schenk shall be entitled to terminate the Agreement, in whole or in part, with immediate effect by means of a written notice, without any prior notice of default being required and/or without judicial intervention, by way of termination (*opzegging*) or dissolution (*ontbinding*), if:
- (a) the Supplier fails to perform any of its obligations under the Agreement and, after having been given written notice to remedy such failure, does not fully remedy such failure within a reasonable period set by Schenk.
 - (b) a third party cancels the assignment granted to Schenk or if the agreement between Schenk and the third party has otherwise been terminated, other than as a result of an attributable failure on the part of Schenk.
 - (c) the Supplier is granted (whether provisionally or not) suspension of payments.

- (d) a petition for the Supplier's bankruptcy is filed, or the Supplier is declared bankrupt, or its business or a significant part of its business is ceased, liquidated or discontinued; or, if the Supplier is a natural person, the Supplier applies for admission to debt restructuring under the Dutch Natural Persons Debt Restructuring Act (*Wet Schuldsanering Natuurlijke Personen*) or a petition to this effect is filed;
 - (e) the Supplier loses control over its assets or enters into an arrangement with its creditors.
 - (f) control over the Supplier's business activities is transferred to or acquired by one or more other parties through the issuance, transfer, or other change of shares or voting rights—within the meaning of the SER Merger Code 2015 (*S.E.R.-besluit fusiegedragsregels 2015*) (regardless of whether such rules formally apply)—or if a change occurs in the composition of its management board.
 - (g) any licenses or permits essential for the Supplier to fulfil the Agreement are revoked.
 - (h) a (significant) part of the Supplier's business assets is seized.
- 14.2. All claims that Schenk has or may have against the Supplier shall become immediately and fully due and payable upon termination of the Agreement pursuant to Article 14.1 of these Terms and Conditions.
- 14.3. Notwithstanding a termination or dissolution of the Agreement as referred to in Article 14.1, Schenk shall retain all of its rights and the Supplier shall retain all of its obligations as stipulated in these Terms and Conditions or pursuant to the applicable law.
- 14.4. If, at the time of termination as referred to in Article 14.1, the Supplier has already performed part of the Agreement, such performance shall not be undone, and Schenk shall only be obliged to make a pro rata payment for the part of the performance already delivered by the Supplier, insofar as that performance is independently usable and of value to Schenk. Under no circumstances shall the Supplier be entitled to any compensation for damages resulting from the termination of the Agreement.

Article 15. Transfer of rights and or obligations to third parties

- 15.1. Schenk shall be entitled to assign the Agreement to a third party without the Supplier's consent.
- 15.2. The rights and obligations arising for the Supplier from the Agreement are not transferable, and this prohibition shall also have effect under property law. Unless not permitted by law, Supplier shall not assign, transfer, pledge or otherwise encumber any of its rights, obligations or claims resulting from the Agreement to a third party without Schenk's prior written consent.
- 15.3. The Supplier shall not outsource or subcontract the performance of its obligations under the Agreement, in whole or in part, to any third party without the prior written consent of Schenk. Permission granted will not discharge the Supplier from its obligations under this Agreement.
- 15.4. In case of subcontracting, the Supplier shall be fully responsible for the performance of third parties engaged in performing the Agreement as if it were his own performance. The persons engaged by the Supplier for the performance of the Agreement shall meet the specific requirements set by Schenk and, in the absence thereof, shall meet the general standards of professional competence and expertise.
- 15.5. If, in Schenk's opinion, the personnel is insufficiently qualified, Schenk shall be entitled to require the removal of such personnel, and the Supplier shall be obliged to immediately replace them.

C. OTHER PROVISIONS

Article 16. Non-competition; anti-solicitation clause

- 16.1. The Supplier shall refrain from making price quotations or offers, either directly or through third parties, to a client of Schenk for goods or services that are also offered by Schenk's business.
- 16.2. During the term of any Agreement and for a period of three (3) year following its termination, the Supplier shall not, either directly or indirectly, enter into an employment agreement or a contract for services with:
- (a) any employee of Schenk; or
 - (b) any former employee of Schenk whose employment agreement with Schenk ended less than one (1) year prior.
- 16.3. In the event of a breach by the Supplier of its obligations under Article 16.1 and/or 16.2 of these Terms and Conditions, the Supplier shall immediately and without the need for any further notice of default forfeit to Schenk a penalty of € 100.000,00 for each violation, plus € 10.000,00 for each day or part thereof that the violation continues, without prejudice to Schenk's right to demand performance and/or claim full or additional damages.

Article 17. Data Protection

- 17.1. Unless otherwise agreed in writing, Schenk shall be entitled to store, process, and use all information obtained in the context of the Agreement.
- 17.2. Schenk and the Supplier shall comply with all applicable legal and regulatory requirements relating to the (processing of) personal data, including the General Data Protection Regulation (Regulation (EU) 2016/679 (*Algemene verordening gegevensbescherming*)) and the Dutch GDPR Implementation Act (*Uitvoeringswet Algemene verordening gegevensbescherming*). If the Supplier processes personal data on behalf of Schenk, the Parties shall enter into a data processing agreement.
- 17.3. The Supplier shall indemnify Schenk against any claims, sanctions, and/or fines resulting from any breach or non-compliance by the Supplier with the legislation referred to in Article 17.2 of these Terms and Conditions.

Article 18. Intellectual property

- 18.1. Insofar as the Supplier holds ownership or entitlement to intellectual property rights relating to the Performance it has delivered, including any related documents, and the Supplier can demonstrate that such rights existed prior to the commencement of the Agreement and were owned by the Supplier, or were developed independently of the (performance of the) Agreement, such intellectual property rights shall remain with the Supplier. The Supplier hereby grants to Schenk a non-exclusive, perpetual, irrevocable, worldwide, and transferable right of use in respect of such intellectual property rights for any purpose related to the performance of the Agreement. This right of use shall also include the right for Schenk to grant such right of use to its (potential) customers or to other third parties with whom Schenk maintains relationships in connection with the conduct of its business.
- 18.2. The Supplier warrants that the use (including resale) of the Performance it has delivered shall not infringe upon any intellectual property rights or other (proprietary) rights of third parties.

- 18.3. The Supplier shall indemnify Schenk against any claims by third parties arising from any infringement of the rights referred to in the preceding paragraphs and shall compensate Schenk for any damage resulting therefrom.
- 18.4. All intellectual property rights in respect of all materials, methods, data, drawings, information, reports, know-how, inventions, trade secrets, improvements, techniques, and other results, as well as the related documentation, which arise in connection with or as a result of any relationship (including the Agreement) between Schenk and the Supplier, shall be vested exclusively in Schenk from the moment of their creation. The Supplier hereby, in advance and free of charge, unconditionally transfers such intellectual property rights to Schenk, and Schenk hereby accepts such transfer. If a deed or other formal act is required for the transfer or registration in the relevant registers, the Supplier shall, upon Schenk's first request, provide its irrevocable and unconditional cooperation, and hereby grants Schenk an irrevocable power of attorney to effect such transfer, registration, or other formal act.
- 18.5. All materials, methods, data, drawings, information, reports, know-how, inventions, trade secrets, improvements, techniques, and other results, as well as the related documentation, provided by Schenk to the Supplier under the Agreement, will remain the property of Schenk and all intellectual property rights to them shall be vested in Schenk and may not be made available to third parties without the prior written permission of Schenk.

Article 19. Tools and equipment

- 19.1. Any drawings, calculations, models, moulds, equipment, components, specifications, and other tools provided by Schenk or acquired or manufactured by the Supplier in the context of the Agreement shall remain or become the property of Schenk at the time of acquisition or manufacture.
- 19.2. The Supplier shall be obliged to visibly mark the tools referred to in Article 19.1 of these Terms and Conditions as the property of Schenk, keep them in good condition, and insure them at its own expense—naming Schenk as the insured party—against all risks for as long as it holds such tools on behalf of Schenk. The Supplier is not permitted to remove or alter any markings on the tools indicating Schenk's ownership.
- 19.3. The tools shall be returned to Schenk upon its first request or upon completion of the Performance, whichever occurs first.
- 19.4. Tools used by the Supplier in the performance of the Agreement shall be submitted to Schenk for approval upon Schenk's first request.
- 19.5. The Supplier shall not use or allow the use of the tools for any purpose other than delivery to Schenk.
- 19.6. Upon Schenk's first request, the Supplier shall provide Schenk with a status report indicating the quantity and condition of Schenk's tools in its possession.
- 19.7. If Schenk provides goods to the Supplier for processing, combination, or mixing with goods not owned by Schenk, Schenk shall become the owner of the resulting goods at the moment of such processing, combination, or mixing.
- 19.8. The Supplier shall not use or allow the use of data from the documents referred to in Article 19.1 for any purpose other than the performance of its obligations. The Supplier shall be bound to maintain the confidentiality of all data and information originating from Schenk.
- 19.9. If the Agreement requires the provision of certificates, attestations, certificates of conformity, warranties, instruction manuals, and/or revised drawings, the Supplier shall ensure that these are delivered to Schenk in a timely manner.

- 19.10. If the Supplier fails to comply with any of the obligations set out in Articles 19.1 through 19.9 of these Terms and Conditions, Schenk may, among other remedies, suspend its payment obligations until such compliance has been achieved.

Article 20. Assurance

- 20.1. Upon first request by Schenk, the Supplier shall be obliged to provide adequate assurance, to be determined at the sole discretion of Schenk, for the timely and full performance of the obligations incumbent upon the Supplier. This shall include, but not be limited to, a performance guarantee issued by a banking institution established in the Netherlands and affiliated with the Dutch Banking Association.

Article 21. Confidentiality and publicity

- 21.1. The Supplier shall be obliged to maintain the confidentiality of all Confidential Information. The Supplier shall restrict access to Confidential Information to those persons who require it for the performance of the Agreement. Except with the prior written consent of Schenk, the Supplier shall not disclose or make public any Confidential Information or any part thereof to any person, firm, company, or other entity, and shall not use such Confidential Information or any part thereof for any purpose other than the performance of the Agreement. The Agreement itself shall in any case be considered Confidential Information.
- 21.2. The duty of confidentiality referred to in Article 21.1 of these Terms and Conditions shall not apply to information which the Supplier can demonstrate by written evidence:
- (a) was already publicly known or available at the time of disclosure, or became publicly known or available thereafter, other than through an act or omission of the Supplier; or
 - (b) was independently developed by the Supplier without the use of any information disclosed by Schenk; or
 - (c) must be disclosed by the Supplier pursuant to any law, regulation, or rule issued by a government-recognised authority, or by a binding and non-appealable decision of a court or other governmental body. In such case, the Supplier shall promptly notify Schenk in writing so that the scope of disclosure by the Supplier may be limited, in consultation with Schenk, to what is strictly necessary.
- 21.3. The Supplier shall impose the obligation referred to in Article 21.1 of these Terms and Conditions on its employees or third parties engaged in the performance of the Agreement. The Supplier shall ensure and guarantee that such employees and/or third parties do not act in breach of the confidentiality obligations imposed upon them.
- 21.4. In the event of a breach by the Supplier of its obligations under Articles 21.1 through 20.3 of these Terms and Conditions, the Supplier shall immediately and without any further notice of default forfeit to Schenk a non-mitigable penalty of EUR 50.000,00 for each violation, plus EUR 5.000,00 for each day or part thereof that the violation continues, without prejudice to Schenk's right to demand performance and/or claim full or additional damages.

Article 22. Compliance

- 22.1. The Supplier shall be deemed to comply, in its general business operations and in the performance of the Agreement in particular, with all relevant (European) laws and regulations, expressly including, but not limited to, provisions relating to competition, environmental protection (ESG Standards), and working conditions. Furthermore, the Supplier

shall exert its utmost efforts to contribute to corporate social responsibility and to improve environmental sustainability.

- 22.2. The Supplier will provide, at Schenk's first request, all (reasonable) collaboration, support, information and documents required by Schenk to meet any reporting and disclosure requirements and standards under and/or further to applicable law and/or ESG Standards (like CSRD and NIS2).

Article 23. Method of notification

- 23.1. Notifications given by one Party to the other, including undertakings and further agreements, that are relevant to the performance of the Agreement, are binding on the Parties only if they are given or confirmed in writing by an authorised person.
- 23.2. 'In writing' is understood to include 'electronically', provided:
- (a) the notification can be consulted by the addressee.
 - (b) the authenticity of the notification is sufficiently guaranteed; and
 - (c) the identity of the sender can be determined with sufficient certainty.

Article 24. Contacts

- 24.1. Each Party will designate a contact to maintain contacts in relation to the performance of the Agreement. The Parties will notify each other of the person they have appointed as their contact.
- 24.2. The contacts may represent and bind the Parties only as regards the performance of the Agreement. They may not amend the Agreement.
- 24.3. The contractual language is English unless expressly agreed otherwise in writing. If there is a difference in meaning between the Dutch-language version and the translation into another language, the Dutch-language version takes precedence.

Article 25. Invalidity

- 25.1. The invalidity of any provision of the Agreement or of these Terms and Conditions shall not affect the validity of the remaining provisions of the Agreement and the Terms and Conditions. Such remaining provisions shall remain in full force and effect.
- 25.2. If and to the extent that any provision of the Agreement or these Terms and Conditions is found to be invalid or, under the given circumstances, unreasonable or unacceptable according to principles of reasonableness and fairness, the Parties shall consult with each other to agree on a replacement provision that reflects as closely as possible the intent and purpose of the original provision.

Article 26. Disputes and applicable law

- 26.1. The legal relationship between Schenk and the Supplier shall be governed exclusively by Dutch law. The applicability of the United Nations Convention on Contracts for the Sale of Goods (Vienna Sales Convention (CISG) (*Weens Koopverdrag*)) is expressly excluded.
- 26.2. If the Supplier is established within the European Union, any dispute arising out of or in connection with the Agreement shall be submitted to the exclusive jurisdiction of the competent court in Rotterdam, the Netherlands.
- 26.3. If the Supplier is established outside the European Union, any dispute arising out of or in connection with the Agreement shall be settled by arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. The place of arbitration shall be Rotterdam. The arbitral tribunal shall consist of one arbitrator. The language of the

arbitration shall be Dutch. The arbitrator shall be appointed by the Netherlands Arbitration Institute. Notwithstanding the foregoing, Schenk shall have the exclusive right to submit any dispute with a Supplier not established in the European Union to the exclusive jurisdiction of the competent court in Rotterdam.

Article 27. Final provisions

- 27.1. Provisions which by their nature are intended to persist after the Agreement has been performed or terminated will remain in force after the expiry of the Agreement. These provisions include in any event, but not limited to, the provisions relating to warranty, confidentiality, non-performance, liability, cancellation, documentation, insurance and disputes and applicable law.
- 27.2. The Supplier's right to suspension, including the right of retention and the right of set-off, is excluded. Furthermore, the Supplier's right to full or partial termination or annulment is excluded.

D. Engagement of personnel and self-employed contractors

Article 28. General obligations of the Supplier

- 28.1. The Supplier is obliged to comply with all orders and instructions issued by Schenk and the Supplier shall ensure that all its personnel and/or subcontractors will comply accordingly. If the Supplier deploys persons who do not meet the requirements of this article, Schenk shall be entitled to deny these individuals immediate access to the location where the Performance is to be carried out. Any damages, including consequential damages, suffered by Schenk as a result shall be borne by the Supplier.
- 28.2. Before commencing the performance of the Agreement, the Supplier must familiarise itself with the conditions of the site and buildings where the work is to be carried out.

In the case of a Supplier with personnel

- 28.3. The Supplier warrants, in performing the Agreement, to comply with all applicable laws and mandatory regulations, the relevant collective labour agreement (*cao*), and the agreements entered into in individual employment contracts. When engaging auxiliary persons or companies that provide workers, the Supplier must stipulate that they are bound to comply with the applicable laws and regulations, the relevant collective labour agreement (*cao*), and all agreements made in individual employment contracts. The Supplier must also ensure that these obligations are likewise imposed on all parties with whom they subsequently conclude agreements.
- 28.4. The Supplier is at all times exclusively and fully responsible and liable for the timely, full and correct fulfilment of any and all obligations and payments, of whatever nature and on whatever ground, concerning the employment and working conditions of all its personnel insofar as directly or indirectly related to the execution of the Performance. The Supplier shall indemnify and hold Schenk harmless against any consequences including but not limited to administrative fines, resulting from a failure to comply with the obligations and payments.
- 28.5. Upon first request by Schenk, the Supplier is obliged to provide immediately and at all times all documentation, declarations, and the like, including those issued by the competent (tax and/or social security) authorities, and any other assistance reasonably required to verify and evidence compliance by Supplier and its subcontractors with their obligations pursuant to articles 28.3 and 28.4.

- 28.6. If Schenk is subject to an additional assessment, sanction and/or fine due to violation or non-compliance with laws and regulations, which is attributable to a breach or non-compliance by the Supplier, Schenk shall be entitled to recover the resulting damage from the Supplier or offset such damage against claims from the Supplier. Damages shall include, but not be limited to administrative fines and penalties, as well as losses resulting from the suspension of the Performance.

In the case of a Supplier without personnel

- 28.7. The Supplier accepts the Performance and thereby assumes full responsibility for the proper execution of the agreed work.
- 28.8. The Supplier shall independently organise his work. Coordination with Schenk shall take place, insofar as necessary for the proper execution of the Performance, in the case of cooperation with others, to ensure optimal collaboration. If necessary for the work, the Supplier shall adhere to Schenk's working hours.
- 28.9. The Supplier performs the agreed work entirely independently. In performing the agreed work, the Supplier is only bound by the directions and instructions of Schenk regarding the result of the Performance.
- 28.10. Schenk expressly agrees that the Supplier may also perform work for other clients.
- 28.11. The Supplier indemnifies and shall hold Schenk harmless for any (additional) assessments for wage tax and/or national insurance contributions. In such a case, the compensation paid to the Supplier under any agreement shall be considered a gross amount, including the employer's share of taxes and contributions, and a corresponding recalculation and settlement shall take place.

Article 29. Employment conditions

- 29.1. The Supplier shall record all employment conditions related to the execution of the Agreement in a clear and accessible manner.
- 29.2. Upon request, the Supplier shall grant access to these employment conditions to the competent authorities and shall cooperate with inspections, audits, or wage validations.
- 29.3. Upon request, the Supplier shall grant Schenk access to the employment conditions if Schenk deems this necessary for the prevention or handling of a wage claim concerning work performed under the Agreement.
- 29.4. The Supplier shall immediately notify Schenk in writing of any wage claim filed by or on behalf of a worker who has performed work for Schenk. Upon indications of irregularities, the Supplier shall make efforts to resolve such matters within a reasonable period.

Article 30. Hiring personnel on a call-off basis and hourly invoicing

- 30.1. If it has been agreed with the Supplier that Schenk may hire personnel on a call-off basis, Schenk shall be entitled to hire personnel from the Supplier from time to time during the term of the Agreement, and Schenk shall never be obligated to purchase a minimum number of hours.
- 30.2. The Supplier shall only be entitled to payment for hours worked insofar as those hours do not exceed the number specified in the trip planning prepared by Schenk. If and insofar as the hours invoiced by the Supplier exceed Schenk's planning, the Supplier must provide proper written justification for the excess. Upon receipt of such written substantiation, Schenk shall determine whether the additional hours are eligible for compensation.