

**GENERAL TERMS AND CONDITIONS FOR THE  
PURCHASE OF GOODS AND SERVICES  
OF DE EFTELING B.V. (WITH ITS REGISTERED  
OFFICE IN KAATSHEUVEL)**

**1 Definitions**

In these general purchase conditions, the following capitalised terms have the meanings given:

- 1.1 **Contracting Party:** the party with whom Efteling enters or has entered into a Purchasing Contract;
- 1.2 **Services:** the activities to be carried out by the Contracting Party in order to meet a specific need of Efteling, not being works;
- 1.3 **Items:** a) all tangible objects capable of human control and b) software and licences (insofar as these cannot be regarded as property rights);
- 1.4 **Goods:** Items and property rights;
- 1.5 **Efteling:** De Efteling B.V., with its registered office in Kaatsheuvel;
- 1.6 **Delivery:** the act(s) which are performed by the Contracting Party for Efteling under the Purchasing Contract and by which title to Goods is transferred to Efteling;
- 1.7 **Purchasing Contract:** any contract under which Efteling is the client;
- 1.8 **E.I.V.:** the general terms and conditions for the purchase of goods and services of De Efteling B.V. (with its registered office in Kaatsheuvel).
- 1.9 **Party/Parties:** Efteling and/or the Contracting Party;
- 1.10 **Performance:** the Delivery of Goods and/or the provision of Services.

**2 Applicability of E.I.V.**

- 2.1 The E.I.V. apply to all requests for an offer and all Purchasing Contracts with respect to Deliveries and Services. The E.I.V. may only be departed from if the Parties have expressly agreed on this in writing.  
By submitting an offer, the Contracting Party expressly rejects the applicability of its general terms and conditions.

**3 Formation of Purchasing Contracts**

- 3.1 A Purchasing Contract is formed after Efteling's Procurement Department has sent an explicit written acceptance of the Contracting Party's offer by e-mail, fax or letter to the Contracting Party, followed by an order confirmation by e-mail, fax or letter from the Contracting Party to Efteling, or by the signing of a designated contract document by the Parties.
- 3.2 Only the documents referred to under 3.1 can be used as evidence for the existence and contents of the Purchasing Contract.
- 3.3 Any supplements and/or changes to the Purchasing Contract will only be binding if they have been recorded by the Parties in writing.
- 3.4 All acts performed by the Contracting Party before the formation of the Purchasing Contract are at the Contracting Party's risk and expense.

**4 Prices / payment**

- 4.1 All prices mentioned in the Purchasing Contract are fixed prices that apply throughout the term of the Purchasing Contract.
- 4.2 Additional costs, e.g. due to price increases, additional work and additional deliveries, may be charged only with Efteling's prior written consent.
- 4.3 The price agreed with Efteling in any case includes the price for the Performance, packaging and transport, operating instructions, spare parts, service and warranty costs (including call-out charges and, if necessary, costs of assembly and instructions) and the other costs reasonably deemed to be directly related to the Performance.
- 4.4 All taxes, import duties and/or other charges and all other
- 4.5 requirements and/or regulations and/or guidelines imposed by the government are entirely at the Contracting Party's risk and expense, unless otherwise agreed in writing

and/or unless mandatory rules of law provide otherwise.

- 4.6 The Contracting Party will not invoice Efteling until the Contracting Party has correctly performed all its obligations under the Purchasing Contract.
- 4.7 At the first request of (and for the benefit of) Efteling, the Contracting Party will provide security for any full or partial repayment of the purchase price. In that case, Efteling may suspend payment of the amounts it owes the Contracting Party until the security requested has been provided.

## **5 Obligations of the Contracting Party**

- 5.1 The Contracting Party will keep Efteling informed of the execution of the Purchasing Contract and will provide Efteling with information when requested to do so. One of the obligations of the Contracting Party is to inform Efteling immediately and in writing of any facts and circumstances which may result in a delay in performance or which were not taken into account when the Purchasing Contract was entered into.
- 5.2 Only after Efteling's written approval will the Contracting Party be allowed to have the Purchasing Contract executed in whole or in part by third parties, or to transfer rights and/or obligations arising from the Purchasing Contract to third parties. In these cases, the Contracting Party will always remain ultimately responsible and liable towards Efteling.
- 5.3 Only if the Contracting Party has been explicitly authorised by Efteling in writing will the Contracting Party act as Efteling's authorised representative. Any and all consequences arising from a violation of the provisions of the preceding sentence will be at the Contracting Party's risk and expense.

## **6 Obligations of Efteling**

- 6.1 At the Contracting Party's request, Efteling will provide all information and data insofar as Efteling believes that these are necessary for the proper execution of the Purchasing Contract.
- 6.2 The agreed price as referred to in Article 4 will be paid by Efteling within 30 days of receipt of a correct invoice. The invoice must

be sent to Efteling's Accounts Payable Department and must state a purchase order number and VAT number. Efteling may set further conditions on the invoice.

## **7 Delivery, storage and transfer of title**

- 7.1 In those cases in which the Contracting Party manufactures (or has a third party manufacture) Items for Efteling, the Contracting Party will, when these Items (or parts thereof) are finished, transfer legal title to these Items to Efteling, which transfer Efteling hereby accepts. These transferred Items will be marked and stored by the Contracting Party in such a way that they can be identified as property of Efteling.
- 7.2 All Items to be processed, stored or taken into custody for Efteling by the Contracting Party outside Efteling's premises will be insured by the Contracting Party against damage and loss.
- 7.3 Items will always be transported based on DDP (Incoterms).
- 7.4 Physical delivery of the Items will always be at a location to be specified by Efteling. Delivery will be reported to Efteling in writing, stating the nature and number of the Items delivered, and will be completed as soon as Efteling has confirmed this to the Contracting Party in writing. All packaging materials, auxiliary materials and other Items necessary for a proper transport and delivery will be removed by and at the expense of the Contracting Party. The Contracting Party will make an effort to use sustainable and environmentally friendly packaging materials.

7.5 At Efteling's request, the Contracting Party will temporarily suspend the dispatch of the Items or the provision of services and resume them at Efteling's first request, without claiming termination and/or compensation.

## **8 Guarantees and quality**

8.1 The Contracting Party guarantees that the Performance delivered will comply with the Purchasing Contract, with generally applicable standards and with rules applicable by or pursuant to laws, regulations or treaties with respect to - but not limited to - safety, health and the environment.

8.2 In any case, the Contracting Party guarantees (where the context shows that the Performance concerns the delivery of Goods or the provision of Services):

- a. that the quantity, description and quality are in accordance with the order and the related technical specifications;
- b. that sound materials are used for the delivery of the Performance and that all is executed properly;
- c. that, in all respects, the Performance is equivalent to the samples or models made available or provided by Efteling and/or the Contracting Party;
- d. that, in terms of capacity, efficiency, speed and finish, the Performance is delivered as described in the order or, if not expressly stated, as is otherwise customary;
- e. that the Performance is suitable for the purpose communicated to the Contracting Party.

8.3 The Contracting Party guarantees that all Goods delivered are free from any restrictions under the law of property and/or the law of obligations and/or other rights for the benefit of third parties.

8.4 Efteling is entitled to inspect the Performance and the Contracting Party will cooperate in this where necessary.

8.5 If the inspection shows any defects, the Contracting Party will be obliged towards Efteling to remedy such defects free of charge and

8.6 as soon as possible, but no later than two weeks after a written statement from Efteling.

8.7 If it is impossible or, in light of the time and costs involved, unjustifiable to repair the defects (at Efteling's discretion), Efteling has the right to reject the items.

8.8 The provisions of Article 8.55 and 8.6 equally apply to a Performance that is not (or need not be) inspected, on the understanding that the defect in the Performance must be discovered within four weeks after putting into use.

8.9 If the Performance concerns the delivery or manufacture of an Item, the other party will provide Efteling with a warranty on this Item for the duration of the Item's useful life that Efteling can reasonably expect, with a minimum of two (2) years, counting from the date of delivery of the Item to Efteling and/or the date on which the Item is put to use by Efteling, in any event counting from the latest possible date. During the warranty period, the Contracting Party will repair any defects in the Item free of charge.

8.10 If the Performance consists of (among other things) granting access to an electronic environment (including, but not limited to: SaaS, Cloud computing), the Contracting Party guarantees that measures have been taken to guarantee the continuity of this Performance and data portability should the Contracting Party's operations be jeopardised for whatever reason. Data portability – which may be invoked by Efteling at all times – may never involve restrictions and costs for Efteling. At Efteling's first request, the Contracting Party will demonstrate how the Contracting Party has guaranteed the provisions of this Article 8.9.

8.11 If the Performance does not meet the provisions of Article 8.2 and/or 8.3, Efteling has the right to return or store the Items (or have them stored) at the Contracting Party's risk and expense and to suspend its payment obligation.

- 8.12 The Contracting Party guarantees that the Performance is delivered without child labour or slavery (in whatever form). At Efteling's first request, the Contracting Party will provide the statement pursuant to Article 4 of the Duty of Care (Child Labour) Act [*Wet Zorgplicht Kinderarbeid*].
- 8.13 The Contracting Party guarantees that, when realising and delivering the Performance, it will always choose the most sustainable way to realise and deliver the Performance (if it can choose from several options). In doing so, it should look at which option has the lowest impact on human beings, animals and the environment with a view to the future.
- 8.14 If the situation arises as referred to in Article 8.9 or if the Contracting Party cannot comply with the provisions of Article 8.10, 8.11 and 8.12, Efteling will be entitled to terminate the Purchasing Contract without judicial intervention by means of a written statement to the Contracting Party.

## **9 Obligation to provide information**

- 9.1 The Contracting Party states that it has provided and will provide Efteling with all information about any facts and circumstances that may be important for Efteling and that it has not withheld, and will not withhold, any information.
- 9.2 In particular, the Contracting Party must, before the formation of the Purchasing Contract, state in writing whether the Performance and/or Items delivered contain any environmentally hazardous substances that may be released during installation, normal use and/or in case of breakdowns, repairs, maintenance or calamities, the removal, storage, disposal, relocation, removal or destruction of the relevant Performance and/or Items at the end of their useful life. If this is the case, the Contracting Party must, upon delivery, give clear instructions for taking measures to prevent any release. Moreover, the Contracting Party must state the measures that need to be taken in order to protect Efteling, its staff and third parties against these substances in case of any release. The Contracting Party will

fully indemnify Efteling against any costs, damage, loss or liability towards third parties, including the government, if any soil pollution is caused or relevant statutory regulations are violated.

## **10 Confidentiality/Privacy**

- 10.1 The Contracting Party undertakes not to disclose or use for its own purposes any information of which it becomes aware during the execution of the Purchasing Contract and the confidential nature of which it knows or should reasonably suspect, in any manner whatsoever.
- 10.2 The Contracting Party will impose this duty of confidentiality on the persons working for it or on third parties engaged by it.
- 10.3 If the Contracting Party and/or the persons working for the Contracting Party and/or third parties engaged by the Contracting Party violate the provisions of the preceding paragraphs, Efteling will be entitled to suspend the Purchasing Contract with immediate effect, or terminate it without judicial intervention and without notice of default.
- 10.4 If the Contracting Party will process personal data for or on behalf of Efteling, the Parties must enter into a separate processing agreement. The Contracting Party guarantees that it always processes personal data, as defined in Article 5 of the General Data Protection Regulation, in a lawful, proper and transparent manner and in accordance with the applicable laws and regulations as well as any processing agreement entered into. The foregoing applies in full to any cross-border transmission and/or distribution and/or provision of personal data to non-EU countries.

## **11 Intellectual property**

- 11.1 Any and all intellectual property rights (IP rights) and entitlements thereto with respect to any result arising

- 11.2 from the Purchasing Contract are only vested in Efteling, unless explicitly agreed otherwise in writing. The Contracting Party will transfer such IP rights (and entitlements thereto) to Efteling, which transfer Efteling hereby accepts. Fair compensation for this transfer is deemed to have been factored into the price agreed between the Parties. The Purchasing Contract between Efteling and the Contracting Party serves as a deed of transfer of the IP rights transferred in accordance with this article.
- 11.3 Insofar as necessary, the Contracting Party also grants an exclusive, unlimited and irrevocable licence for the operation (including publication, processing, modification and reproduction) of the Items delivered under the Purchasing Contract. Insofar as the Contracting Party uses third-party IP rights, it guarantees that those rights will be transferred to Efteling in the same manner – which transfer is accepted by Efteling – so that Efteling can freely make use of those rights. Before using third-party IP rights, the Contracting Party must obtain Efteling's permission for such use. Fair compensation for the aforesaid licence is deemed to have been factored into the price agreed between the Parties.
- 11.4 Insofar as necessary, the Contracting Party will, at Efteling's first request, cooperate in the transfer of the rights referred to in Article 11.1 and 11.2 in a legally valid manner.
- 11.5 Insofar as possible, the Contracting Party will waive any and all personality rights to copyrighted works created within the context of the Purchasing Contract.
- 11.6 The Contracting Party guarantees that the Performance and all that is associated therewith or results therefrom are free from all special charges and encumbrances which could prevent the free use thereof by Efteling, such as patent rights, trademark rights, design rights or copyrights, and indemnifies Efteling against third-party claims in this respect.
- 11.7 In case of any third-party claims, the Contracting Party will make every effort to ensure, in consultation with Efteling, that

- 11.8 Efteling can continue the undisturbed use of the Items delivered.
- 11.9 In case of any third-party claims that are subject to the above-mentioned obligation to indemnify, the Contracting Party will compensate Efteling for all loss suffered by it, including legal costs, which shall include reasonable lawyers' fees for conducting legal proceedings.

## **12 Attributable failure and termination**

- 12.1 The expiry dates of all periods offered to Efteling as well as the periods set in the Purchasing Contracts concluded with Efteling are final deadlines. After expiry of a period, the Contracting Party will be in default by operation of law and will owe statutory default interest.
- 12.2 If the Contracting Party is in default, Efteling will be entitled to terminate the Purchasing Contract in writing, with immediate effect and without judicial intervention..
- 12.3 If the Purchasing Contract is terminated, the Contracting Party must immediately repay Efteling the price paid by Efteling for the Performance and compensate Efteling for all other loss suffered and to be suffered by Efteling.

## **13 Non-attributable failure**

- 13.1 The Contracting Party may only rely on force majeure in dealings with Efteling if the Contracting Party informs Efteling in writing of its reliance on force majeure as soon as possible, on submission of evidence.
- 13.2 If the situation of force majeure has lasted one month, Efteling will be entitled to terminate the Purchasing Contract. The provisions of Article 12.2 will equally apply.

## **14 Liquidation and moratorium**

- 14.1 In all cases, Efteling may terminate the Purchasing Contract with immediate effect, if:
- a. the Contracting Party has applied for or has been granted a moratorium;
  - b. a winding-up petition has been filed by or against the Contracting Party, or the liquidation of the Contracting Party has been ordered.

14.2 In the events referred to in Article 14.1, any and all claims (including the compensation pursuant to Article 12.3) Efteling may have against the Contracting Party will become immediately due and payable and Efteling may take advantage of the opportunity to set off all outstanding claims between the Parties (no matter how these claims are related to each other).

## **15 Governing law and choice of forum**

- 15.1 The E.I.V. and the Purchasing Contracts are exclusively governed by Dutch law.
- 15.2 The applicability of the Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods) is expressly excluded.
- 15.3 Any disputes between the Parties will be submitted exclusively to the competent judge of the District Court of Zeeland-West-Brabant, Breda location.

## **16 Final provisions**

- 16.1 If one or more of the provisions of the E.I.V. or of the Purchasing Contract are void, the Contracting Party cannot invoke the voidness and/or nullification of the entire Purchasing Contract(s) concluded with Efteling and/or of the E.I.V. in their entirety. If any clause of the E.I.V. is declared void, Efteling has the right to unilaterally insert a new clause.
- 16.2 If a provision of the Purchasing Contract is void or voided, the other provisions of the Purchasing Contract will remain in force and the Parties will consult each other in order to agree on a new provision (or new provisions) that will replace the void or voided provision(s), taking into account the aim and purpose of the void or voided provision(s) as much as possible.