

General Purchasing Conditions

Version 1 November 2020

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Article 1. Definitions

General

Purchasing Conditions:	These General Purchasing Conditions that apply to and form part of the agreement
Appendix:	The supplement to the agreement which forms part of the agreement
Third parties:	Parties other than those party to the agreement
Services:	Work to be performed under the agreement by the counterparty to benefit the Zuyd University of Applied Sciences Foundation
Data carriers:	Items on which information has been recorded in electronic form, such as the hard drive or internal memory of computers
Zuyd University of Applied Sciences Foundation:	All organizational units belonging to the Zuyd University of Applied Sciences Foundation; hereafter to be referred to as: 'Zuyd'
Information carriers:	Paper documents and/or carriers of digital information, on which the performance/results of the counterparty are made available to Zuyd
Deliveries:	The items/goods to be delivered to Zuyd by the counterparty on the basis of the agreement
Agreement:	The agreement for pecuniary interest between Zuyd and the counterparty relating to the delivery of items/goods and/or services to which these General Purchasing Conditions apply
Personality rights:	The personality rights as referred to in Article 25 of the Copyright Act 1912
Performance:	The supply of items/goods and/or services to be provided
Counterparty:	The party that has acknowledged the applicability of the General Purchasing Conditions by signing the agreement
Working day:	A day that is not a Saturday or Sunday or an official public holiday

Article 2. Scope

1. These general purchase conditions are determined by the Board of Governors of Zuyd University of Applied Sciences on 27 October 2020 and will be effective as of 1 November 2020.
2. These General Purchasing Conditions apply to all requests, offers, and agreements, including any follow-up agreements, for which Zuyd acts as the acquirer of the performance.
3. Any deviations to these General Purchasing Conditions may only be agreed upon between the parties in writing.
4. The applicability of any General Terms and Conditions or other conditions of the counterparty and/or third parties is hereby expressly rejected.
5. If any provision of these General Purchasing Conditions and/or the agreement is void or voided, the remaining provisions shall remain fully enforceable and Zuyd and the counterparty shall consult with one another in order to agree on new provisions to replace the void or voided provisions, duly observing as much as possible the object and purport of the void or voided provisions.
6. In the event of any conflict between parts of the agreement or the accompanying appendix or appendices and the General Purchasing Conditions, the following hierarchy shall be adhered to unless agreed upon otherwise: firstly the agreement, secondly the appendix or appendices, and thirdly the General Purchasing Conditions.

Article 3. Content of the agreement

The agreement contains everything that is agreed upon between Zuyd and the counterparty. The following matters are specified in the agreement, if applicable, unless parties have agreed otherwise:

- the project name and/or the purchase order or project number
- that the agreement is subject to the General Purchasing Conditions of Zuyd
- the nature and scope of the performance to be provided, with which the counterparty has been entrusted
- the remuneration referred to in Article 11
- a price indexation, if relevant
- the precise invoice details as referred to in Article 12 paragraph 4
- the deadline by which the performance must be provided and/or the duration of the agreement
- the place and time of the delivery
- the assembly and/or installation, and/or training, if applicable
- the agreed reporting method and frequency as referred to in Article 10 paragraph 3
- the performance/results to be carried out or delivered by the counterparty, as well as any information carriers on which the performance/results of the agreement are to be recorded and made available to Zuyd
- the way in which Zuyd informs the counterparty that it considers the performance that the counterparty is required to carry out under the agreement as completed
- the notice period for the agreement
- the contact persons for Zuyd and for the counterparty
- the coordination within and the liability of the parties, if said parties consist of separate persons or legal entities acting jointly for the acceptance of the agreement; - the penalty clause.

Article 4. Formation of the agreement

1. The agreement has been reached if an irrevocable written offer made by the counterparty is accepted by Zuyd in writing or that which has been agreed upon is confirmed by the parties in writing in another manner.
2. The provisions in paragraph 1 and in Article 5 paragraph 1 shall not affect the authority of the parties to prove the existence of the agreement and/or any changes within the agreement by other means.
3. The term of validity for the offer submitted by the counterparty is 90 days.

Article 5. Changes

1. Any changes to the agreement, including the expansion or reduction of the performance already entrusted to the counterparty, will be implemented as soon as Zuyd has notified the counterparty of these changes in writing and the counterparty has provided confirmation in writing.
2. The counterparty is not entitled to replace the persons who are charged with the performance of the services, either temporarily or permanently, without prior written permission from Zuyd unless agreed upon otherwise in the agreement. Zuyd will not refuse to give its permission on unreasonable grounds and is entitled to attach conditions to its consent. The rates that apply to the persons originally used may not be increased in respect of the replacements. The counterparty shall bear the costs of the induction training.
3. If Zuyd wishes to use other people for the performance of the agreement, as it considers this to be important for the proper performance of the agreement, it will notify the counterparty of this in writing, stating the reasons. The counterparty will ensure that replacements are provided.
4. When replacing the persons referred to in paragraph 2, such persons should be made available who are, in any event, equivalent to the persons originally used in terms of expertise, education, and experience.

Article 6. General obligations of Zuyd University of Applied Sciences

Zuyd must provide the counterparty in time with all the information, data, and decisions required for the proper performance and completion of the agreement.

Article 7. General obligations of the counterparty

1. The counterparty guarantees that the performance to be carried out by the counterparty itself or on its behalf shall comply with the conditions and specifications set out in the agreement and that it shall be carried out in accordance with the agreed schedule.
2. The counterparty shall carry out the performance in close cooperation with Zuyd without prejudice to the provisions contained in paragraph 1.
3. The counterparty shall execute the agreement properly and carefully, promote the interests of Zuyd to the best of its knowledge, and carry out its performance to the best of its knowledge and ability. The counterparty shall avoid everything that could damage its performance. In fulfilling the agreement, the counterparty shall not derive any advantages from applying its own findings of which Zuyd is not aware.
4. The counterparty guarantees the quality and integrity of those who are entrusted to perform the agreement on behalf of the counterparty.
5. The counterparty is obliged to comply with the house rules intended for external parties. These rules are available from Zuyd on request.
6. The counterparty shall keep Zuyd informed of the performance of the agreement, including the financial aspects, and provide Zuyd with information if so requested.
7. If a fixed or maximum amount is agreed upon in the agreement, then the performance of the counterparty must be carried out for no more than that amount or for the most recently updated amount agreed upon by the parties in writing. The counterparty shall prepare cost indications or estimates and budgets for this purpose to be submitted to Zuyd. If this amount is exceeded, the counterparty is obliged to fulfil the agreement without calculating extra costs and/or hours. If, however, the amount is exceeded due to circumstances as referred to in Article 26, or due to a request for a further performance than that which is set out in the agreement, then the extra costs and/or hours are charged separately based on the actual costs incurred and/or hours worked.
8. In order to fulfil its obligation to provide information, the counterparty shall inform Zuyd in time about the financial risks and consequences associated with setting different or further demands, postponing or changing decisions and/or the agreement, and the occurrence of circumstances, which were not taken into consideration when the agreement was concluded.
9. The counterparty shall provide Zuyd with an indication or estimate of the costs and/or hours at the time the agreement is entered into. At the time that any changes to the agreement are agreed upon, the counterparty shall indicate whether and to what extent these changes will affect the indication or estimate of costs and/or hours referred to. As soon as there is a justified expectation that the latest indication or estimate of costs and/or hours is insufficient, the counterparty shall inform Zuyd of this in writing.

Article 8. Counterparty acting as authorized representative

1. The counterparty shall only act as the authorized representative of Zuyd if and insofar Zuyd has appointed the counterparty as authorized representative in writing.
2. If and insofar as the counterparty acts contrary to the provisions in paragraph 1, any adverse effects thereof shall be at the expense and risk of the counterparty, except where this action was endorsed by Zuyd in writing.

Article 9. Cooperation with third parties

1. If the agreement entails that the counterparty is required to coordinate its performance with that carried out by third parties engaged by Zuyd, then Zuyd shall determine, after consulting with all those involved, who shall be responsible for managing and coordinating the work and what each party's task shall be.
2. The management and coordination referred to in paragraph 1 shall, at the very least, require the coordinator to determine a schedule in a timely manner in consultation with Zuyd and the other counterparties for the purpose of executing the agreement referred to in paragraph 1 and that, in the event that the time limit is exceeded or other circumstances arise that could result in a delay or damage, the coordinator will consult with them immediately and provide them and Zuyd with a written report of the matter.
3. If the counterparty is given an agreement to fulfil that also requires services to be performed outside its field, the counterparty may engage the services of other experts with the written permission of Zuyd and at the expense and risk of the counterparty.
4. During the performance of the agreement, the counterparty may only engage the services of third parties after receiving written permission from Zuyd. This permission will not be withheld on unreasonable grounds. Zuyd is entitled to attach conditions to its consent. The permission granted by Zuyd does not affect the responsibility and liability of the counterparty to fulfil its obligations under the agreement and all its tax and social security obligations as an employer.

Article 10. Cooperation, reports, acceptance, and inspection

1. Both parties shall appoint a contact person to maintain contacts in relation to the performance of the agreement.
2. The agreement may provide for the establishment of a supervisory committee or steering group. The tasks and competences, as well as the composition, of the supervisory committee or steering group will be further specified in the agreement.
3. The counterparty shall report on the progress of the work to Zuyd as often as specified in the agreement or as often as Zuyd deems necessary.
4. Zuyd shall notify the counterparty in writing, stating its reasons, as quickly as possible if the delivered performance is not accepted by Zuyd.
5. Zuyd has the right to have the results of the performance assessed. If it becomes clear that the performance does not meet the quality criteria set out beforehand in the agreement and the provisions in the agreement concerning this matter, the costs of the assessment will be charged to the counterparty. Zuyd has the right to carry out or have carried out additional or more extensive quality checks at the expense of the counterparty. If these checks show that all the applicable quality requirements have been met (referring of course to the relevant provisions above), the costs of the additional or more extensive quality checks and the costs of any ensuing consequences for delivery shall be borne by Zuyd.
6. If Zuyd considers the assessment results to be unsatisfactory, the performance will not be accepted. It will submit a written request to the counterparty to satisfy the requirements in the agreement, within a reasonable period to be determined by Zuyd, unless compliance with the agreement has already become permanently impossible.
7. Where appropriate, rejected performances will be removed and immediately replaced by the counterparty on first demand. The costs associated with the removal and replacement of the performance as well as the reinspection shall be charged to the counterparty.

Article 11. Remuneration

1. The remuneration for the performance may consist of:
 - 1.1. the fee for the work carried out by the counterparty
 - 1.2. the costs incurred
 - 1.3. the price to be paid for the items/goods and/or services to be delivered.
2. The fee referred to in paragraph 1 shall be determined in accordance with one or more of the following indicators:
 - 2.1. based on the time spent on the fulfilment of the agreement
 - 2.2. based on any other adequate indicator.
3. If the fee is based on time spent, as referred to in paragraph 2 sub-paragraph 2.1, the fee is calculated by multiplying the time spent on the fulfilment of the agreement by a tariff per unit of time. Unless parties agree otherwise, the time spent covers the total number of hours directly spent on fulfilling the agreement as well as the travel time that is needed for the purpose of fulfilling the agreement. The tariffs per time unit, according to person, function, or group, are defined or described in the agreement.
4. The incurred costs referred to in paragraph 1 are reimbursable in accordance with one or more of the following indicators:
 - 4.1. based on the costs actually incurred
 - 4.2. based on any other adequate indicator.
5. If the parties agree that the counterparty may charge the costs incurred in performing the agreement, as referred to in paragraph 4 sub-paragraph 4.1, the following costs may be reimbursed:
 - the travel costs
 - the costs for reproducing agreements, specifications, drawings, calculations, reports, etc.
 - the costs for postage, telecommunication, registration, and other disbursementsThe extent and amount of the costs to be made shall be further specified in the agreement.
6. It shall also be specified in the agreement which indicators shall be used to calculate the reimbursement referred to in paragraph 1. Unless expressly agreed otherwise, the remuneration will take place in accordance with paragraph 2 sub-paragraph 2.1.
7. The costs of other experts, as referred to in Article 9 paragraph 3, are only reimbursable if this is agreed with Zuyd in advance.
8. The counterparty is obliged to keep Zuyd updated periodically about the remuneration mentioned in this Article and, if agreed between the parties, the costs that are owed by Zuyd to the counterparty under the terms of this article.
9. Unless expressly agreed otherwise, if any changes are made to the agreement as referred to in Article 5 paragraph 1, the performance required for that purpose will be charged separately based on time spent and, if agreed between parties, the costs incurred and/or the price to be paid for the items/goods and/or services supplied will also be charged separately.
10. The remuneration/payment will be due according to the degree to which the performance is carried out under the agreement and/or the degree to which the various phases of the agreement are completed, as expressly agreed upon at the time the agreement was entered into.
11. The amounts to be declared by the counterparty in accordance with the agreement will be increased with the amount of turnover tax that is due.
12. The agreement should set out if and, if so, how the tariff changes and indexations are applied with regard to price.
13. The costs of delivery are at the expense and risk of the counterparty; when the counterparty delivers the items/goods, these items/goods shall be 'Delivered Duty Paid' (DDP) in accordance with the 'Incoterms 2000', or the most recent valid version published by the International Chamber of Commerce in Paris, unless otherwise agreed.

Article 12. Payment

1. Unless otherwise agreed upon, the right to payment shall take effect upon acceptance of the performance results. The counterparty shall submit an invoice within 30 days of acceptance.
2. The counterparty shall send the invoice or invoices in PDF format to:
inkoopfacturen@zuyd.nl or by post to:
Zuyd attn: accounts payable department
Postbus 550
6400 AN Heerlen
The Netherlands
3. The counterparty has a maximum effort obligation to switch to E-invoicing at Zuyd's first request.
4. The invoice or invoices must contain at least the following information:
 - purchase order number
 - Name or code of the organisational unit (academy or service) which placed the order
 - Name of the purchaser
 - Team/project number of the purchaser
 - VAT amountInvoices which do not comply with the requirements of this paragraph shall be rejected.
5. If it has been agreed upon that payment will be based on subsequent calculation, the amounts owed will be specified and invoiced in a format for which Zuyd may provide further specifications. The invoice must state the number and dates of the actual days or hours that were required and also provide a brief description of the work performed as well as a description of any travel and accommodation costs incurred, if these are not included in the daily or hourly rates.
6. If the fixed price stated in the agreement is exceeded, this must be mentioned and specified in the invoice or invoices.
7. Zuyd shall pay the amounts it owes on the basis of the agreement to the counterparty within 30 days of receiving the invoice concerned.
8. If Zuyd has not paid an invoice without giving valid reasons by the time the term referred to in paragraph 6 has expired, the counterparty is entitled to interest at the statutory rate, starting from the day following the latest date on which payment was due. The counterparty is not entitled to payment of interest if the invoice does not meet the criteria in paragraphs 2 to 6. Compound interest shall not be owed.
9. If Zuyd wishes to contest the accuracy of the invoice or a part thereof, the parties shall enter into discussions for the purpose of resolving the situation that has arisen. Zuyd is entitled at all times to have the details of the invoices submitted by the counterparty checked for accuracy by a (certified) accountant appointed by Zuyd, as referred to in Article 393, first paragraph, of Book 2 of the Dutch Civil Code. The counterparty shall allow the (certified) accountant to inspect its books and records and provide him with all the data and information he requires. This inspection is confidential and shall not extend further than the actions needed to verify the invoices. The (certified) accountant shall submit his report to both parties as quickly as possible. The costs of the audit shall be paid by Zuyd, unless the accountant's audit shows that the invoice or invoices are inaccurate or incomplete, in which case the costs referred to shall be borne by the counterparty.
10. Zuyd is entitled to suspend payment of an invoice or a part thereof, for which no agreement has been made between the parties, for the duration of the accountant's audit. Zuyd shall only make use of this right if there are reasonable doubts about the accuracy of the invoice concerned.
11. If Zuyd exceeds the deadline for a payment or does not pay an invoice as it suspects an inaccuracy in the invoice or in the event of shortcomings in the services invoiced, this shall not give the counterparty the right to postpone or to terminate the performance of its work.

Article 13. Advance payment

1. If, in the execution of the agreement, Zuyd makes a payment or payments for performances that have not yet been carried out, the counterparty shall issue Zuyd with an unconditional 'on demand' credit institution guarantee with no end date prior to these payments, to the value of the amount or amounts paid. There are no costs attached to this guarantee for Zuyd. If, due to any shortcomings on the part of the counterparty, services are not accepted within the agreed period, the counterparty shall owe the statutory interest on the advance payment, for as long as the shortcoming continues.
2. If the counterparty forms part of a group and the parent company is jointly and severally liable for the debts of its subsidiary, the counterparty shall submit a letter of comfort. The letter of comfort is valid for debts arising from the legal acts concluded with Zuyd.
3. The unconditional 'on demand' credit institution guarantee is issued by an approved credit institution. The credit institution declares that it will promptly pay Zuyd on request the amount specified in the guarantee, plus the statutory interest on that amount, counted from the day that Zuyd alleges that the counterparty is in breach of fulfilling the agreement.

Article 14. Ownership of items and information carriers

1. When carrying out the performance, the counterparty may make use of items that are the property of Zuyd and which are given on loan for that purpose. Conditions may be attached to this loan.
2. Information carriers which the parties make available to one another remain the property of the party making them available, unless these information carriers are made available to Zuyd by the counterparty as referred to in Article 3. In this case, the ownership will be transferred to Zuyd.
3. If, in the delivery of the services, the counterparty makes use of items which are the property of Zuyd, as referred to in paragraph 1, and which are given in loan for that purpose, the counterparty is liable for any damage which occurs to these items. Conditions may be attached to this loan. If any of Zuyd's items present at the location of the counterparty for the purpose of executing the agreement cause damage, in whatever manner, to the counterparty and/or to third parties, the damage will be fully at the expense and risk of the counterparty. Where appropriate, the counterparty shall indemnify Zuyd against third-party claims.
4. The liability referred to in the third paragraph of this article is limited to €1,000,000 per occasion with a maximum of €2,000,000 per year.

Article 15. Delivery and packaging of items/goods

1. The counterparty shall deliver the items/goods DDP in accordance with the 'Incoterms 2000', or the most recent valid version published by the International Chamber of Commerce in Paris.
2. The items/goods to be delivered must not be packed in packaging that is considered or suspected to be harmful to the environment, according to the state of scientific knowledge at the time of delivery, or which could present a danger to health, safety, or well-being in any other way.
3. If, in the execution of this agreement, paragraph 2 of this article cannot be complied with in respect to packaging, and such packaging is nevertheless used for the deliveries, the counterparty shall notify Zuyd of this matter. Zuyd then has the right to return the packaging to the counterparty at the expense of the counterparty or to have it processed at the expense of the counterparty. This also applies when the packaging does not comply with the provisions in paragraph 2 of this article and the counterparty failed to report this matter.
4. The items/goods to be delivered should be accompanied by all the available documentation whose purpose is to facilitate the proper use of the items/goods, and by any relevant quality labels or certificates.
5. The counterparty shall repair or replace at its own expense any items/goods that are damaged or lost due to or during transportation, all at Zuyd's discretion.

Article 16. Time of delivery of items/goods

1. The items/goods will be delivered at the agreed destination and at the agreed time.
2. As soon as the counterparty knows or expects that the items/good will not be delivered or delivered on time, the counterparty shall immediately notify Zuyd of this matter in writing, specifying which measures it intends to take to prevent or limit the damage for Zuyd that arises from this non-compliance. Notwithstanding the provisions in Article 24, the counterparty shall bear all the ensuing damage for Zuyd, unless the counterparty is able to prove that Zuyd is the party causing these circumstances.
3. If Zuyd notifies the counterparty in time that it is unable to receive the items/goods at the agreed time, for whatever reason, and these items/goods are ready for shipment, the counterparty must store and safeguard the items at its own expense and take all reasonable measures to prevent any deterioration in the quality thereof until they are delivered, unless this cannot reasonably be demanded of the counterparty. Zuyd shall not become in default as a creditor due to postponement of delivery.
4. Postponement of delivery, as referred to in paragraph 3 of this Article, never entitles the counterparty to an increase in the agreed price. In the event of a postponement of delivery, the counterparty may only claim compensation for consequential damage if there is evidence of deliberate intent, gross fault, or extreme negligence on Zuyd's part.

Article 17. Guarantee of items/goods

1. The counterparty guarantees that the items/goods supplied can be used uninterrupted, without defects and/or other functional hindrances for those purposes for which the items/goods were intended for a period of at least twelve months after acceptance.
2. If the items/goods are not put into use immediately, the guarantee period will be extended by the period during which the items/goods were not used, up to a maximum guarantee period of eighteen months.
3. If a defect occurs during the guarantee period, the counterparty, regardless of the cause of the defect, is obliged to replace, repair, or, provided it is reasonably possible to do so, take back the items/goods within a reasonable period to be determined by Zuyd and to immediately refund the payment made for those items/goods, all at Zuyd's discretion. The counterparty shall pay all costs incurred pursuant to this paragraph, unless the counterparty can demonstrate that the defect that arose during the guarantee period is not for the account and risk of the counterparty.
4. In addition to the obligations pursuant to paragraph 3 of this article, the counterparty is also liable for all damage that arises in indirect relation to the defect, all with due observance of the principle of reasonableness and fairness. The liability referred to in the third paragraph of this article is limited to €1,000,000 per occasion with a maximum of €2,000,000 per year.
5. The guarantee period shall be extended by a period equal to the period or periods during which the items/goods were not used or could not be fully used as a result of a defect that manifested itself during the guarantee period. A new guarantee period in conformity with paragraph 1 of this article shall apply to replacement items/goods and to the replaced or repaired parts of those items/goods.
6. In addition to paragraph 1 of this article, if Zuyd can demonstrate that there was a hidden defect that was already present prior to acceptance of the items/goods, the counterparty shall remain liable for this defect for five years after the acceptance. The foregoing provision shall similarly apply if a defect occurs during that period as a result of which the delivered items/goods become unusable for the purpose for which they were intended, in view of that which is specified in the agreement, or the reasonably foreseeable use of the items/goods that are delivered. If a situation occurs as in this paragraph, paragraph 3 of this article shall apply as far as possible.

Article 18. Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act

1. In the performance of the assignment, the counterparty shall comply with current rules and regulations and any relevant collective labour agreement.
2. The counterparty shall record in a clear and accessible manner all employment-related agreements for the performance of this assignment.
3. On request, the counterparty shall grant access to these employment-related agreements to the competent authorities and cooperate with inspections, audits, or wage validations.
4. On request, the counterparty shall provide Zuyd with access to these employment-related agreements if Zuyd considers this necessary in connection with the prevention or the handling of wage debts relating to work performed for the purposes of the assignment.
5. The counterparty is obliged to fully impose all the above mentioned contractual obligations (information obligations) on all parties with which it enters into contracts for the purpose of performing the assignment.
6. The counterparty is obliged to additionally stipulate that these parties subsequently include the above contractual obligations in full in contracts which they enter into for the purpose of performing the assignment.

Article 19. Early termination of the agreement by Zuyd University of Applied Sciences

1. Zuyd is entitled to terminate the agreement early provided it has sufficient grounds to do so, on the basis of which Zuyd could not reasonably be expected to continue the agreement.
2. In the event that the agreement is terminated as specified in paragraph 1, Zuyd is obliged to pay the counterparty:
 - the fees according to the state of the activities
 - the costs incurred
 - the costs arising from any commitments that the counterparty has already reasonably entered into with third parties for the fulfilment of the agreement.
3. Any advances already paid will be settled with these payments.
4. If and insofar as the performance to be carried out, or a part thereof, consists of delivering information carriers, then this obligation applies on the condition that the counterparty transfer the ownership of all (draft) information carriers created within the context of the agreement to Zuyd until the moment of early termination.
5. Compliance with the provisions of paragraph 2 shall be suspended if the basis for early termination is due to the counterparty being in default or the counterparty being given notice of default based on failures to comply with its obligation or obligations as referred to in Article 24 paragraph 1. In that case, the requirements based on paragraph 2 will be offset against the losses suffered by Zuyd as referred to in Article 24.
6. Early termination shall be effected by means of a registered letter sent to the counterparty. The notice period shall be six months, unless otherwise agreed in a contract.
7. The information carriers belonging to Zuyd which were made available to the counterparty within the context of performing the agreement will, in the event of an early termination, be returned to Zuyd immediately or as quickly as possible. The provisions contained in Article 32 apply accordingly to the performance carried out by the counterparty until the time of early termination.
8. Unless agreed otherwise, the counterparty is obliged to keep confidential and not to disclose to third parties all information provided to it during the term of the agreement, following on from the duty of confidentiality set out in Article 32.
9. If any benefit has been or is offered or provided by the counterparty or by one of its employees to a person belonging to a body of Zuyd or to one of Zuyd's employees or representatives, Zuyd has the right to dissolve the agreement, without notice of default or judicial intervention and without prejudice to Zuyd's right to demand compensation for costs and/or damage, in whatever form or to whatever extent.

Article 20. Early termination of the agreement by the counterparty

1. The counterparty is entitled to terminate the agreement early in the event of force majeure as referred to in Article 26 and in the event that Zuyd fails to comply with its obligations as referred to in Article 6.
2. Nonetheless, the counterparty is obliged to limit the damage for Zuyd that ensues from the early termination, or to take adequate measures to prevent damage from occurring.
3. The provisions contained in Article 19 paragraph 2 shall also apply in the event that the agreement is terminated early by the counterparty.
4. Early termination shall be effected by means of a registered letter sent to Zuyd. The notice period for termination of the agreement is six months.
5. The information carriers belonging to a party which were made available to the counterparty within the context of performing the agreement will, in the event of an early termination, be returned to the counterparty immediately or as quickly as possible. The provisions contained in Article 32 apply accordingly to the performance carried out by the counterparty until the time of early termination.
6. Unless agreed otherwise, the counterparty is obliged to keep confidential and not to disclose to third parties all information provided to it during the term of the agreement, following on from the duty of confidentiality set out in Article 32.

Article 21. Termination due to bankruptcy and suspension of payment

1. If the counterparty, having become bankrupt, decides to dissolve the company or applies for suspension of payments, or if a seizure under a warrant of execution, followed by a validation, is made with respect to registered property or essential components of the counterparty's business operations (which could hinder the performance and observance of the agreement), or if there is a change made to the legal entity as a result of a takeover or a transfer of the shares, Zuyd has the right to notify the counterparty that it will immediately terminate the agreement by means of an extrajudicial termination, without notice of default or judicial intervention and without prejudice to Zuyd's right to demand compensation for costs and/or damage, in whatever form or to whatever extent.
2. If and insofar as the performance to be carried out, or a part thereof, consists of delivering information carriers, then this article applies on the condition that the counterparty transfer the ownership of all (draft) information carriers created within the context of the agreement to Zuyd until the moment of dissolution. In the event of a termination as referred to above, Zuyd has the right to take all measures it considers useful and necessary to further effect the realization of the project and to engage the services of third parties for this purpose.

Article 22. Risk of delay concerning the services to be delivered

1. If there is a risk of delay concerning the delivery of the services, the counterparty shall immediately notify Zuyd of this in writing, stating the cause and the consequences of this risk of delay. The counterparty also proposes measures to prevent a delay from occurring, also in the future.
2. Within 14 days of receiving the notification referred to in paragraph 1, Zuyd will advise whether it consents to the suggested measures and the consequences mentioned. Consent does not mean that Zuyd acknowledges the cause of the risk of delay, nor does it affect any other rights or claims accorded to Zuyd on the basis of the agreement.

Article 23. Interruption of the agreement

1. Zuyd may order the counterparty to interrupt its performance of the agreement. Zuyd is obliged to inform the counterparty of this matter in writing.
2. Unless the interruption is attributable to the counterparty, Zuyd is obliged, in the event of an interruption to the agreement, to pay the counterparty:
 - the fees according to the state of the activities
 - the costs incurred
 - the costs arising from any commitments that the counterparty has already reasonably entered into with third parties for the fulfilment of the agreement.

If and insofar as the performance to be carried out, or a part thereof, consists of delivering information carriers, then this obligation applies on the condition that the counterparty transfer the ownership of all (draft) information carriers created within the context of the agreement to Zuyd until the moment of interruption. In addition, the counterparty is entitled to claim compensation from Zuyd for damages suffered as a result of the interruption, without prejudice to the obligation of the counterparty to limit the damage for Zuyd as much as possible.

3. As soon as the agreement continues at a later time, the extra work for the counterparty that arises from restarting the work shall be reimbursed by Zuyd based on time spent and, if relevant, costs incurred. The parties shall discuss whether the provisions of the agreement need to be adapted to the new situation.
4. In the event of an interruption lasting longer than two years, the parties are obliged to enter discussions with one another with a view to terminating the agreement in accordance with the provisions contained in Articles 19 and 20.

Article 24. Compliance

1. If one of the parties fails to fulfil its obligations arising from the agreement, the counterparty can provide him with a notice of default. However, the defaulting party is immediately in default if compliance with the obligations concerned remains impossible within the agreed term other than due to force majeure. The notice of default is submitted in writing by registered letter, in which the defaulting party is granted a reasonable period in which to still fulfil its obligations. The expiry date of this period is to be regarded as a strict deadline. If the obligations are not fulfilled within this period, the defaulting party shall be in default. The counterparty is entitled, at its discretion:
 - a. to proceed to termination of the agreement
 - b. to enforce compliance with the agreement, unless the relevant party has expressly agreed to the non-compliance in writing.
2. The notice of default mentioned in paragraph 1 is not required if the delivery time is extended based on the provisions in Article 16 paragraph 2 and Article 22 paragraph 2. If the agreement is still not complied with in accordance with paragraph 1 by the time the extended period expires, the defaulting party will be immediately in default.
3. The party that imputably fails to fulfil its obligations is liable to the counterparty for any damages suffered and/or yet to be suffered by the latter. It indemnifies the counterparty against all third party claims in connection with compensation for damages arising from the aforementioned shortcomings.
4. The costs of all judicial and extrajudicial measures, which, at all events, includes collection costs and costs of legal assistance, made in connection with the non-compliance and/or breach by the party remaining in default, shall be charged to that party, with the exception of the process costs to be paid by the counterparty pursuant to a court decision.
5. The liability referred to in the third paragraph of this article is limited to €1,000,000 per occasion with a maximum of €2,000,000 per year.

Article 25. Penalties

1. Zuyd may include a penalty clause in the agreement in which it is stipulated, among other things, that if the full performance corresponding with the agreement is not accepted or another performance to fulfil the agreement is not offered and accepted within the agreed or extended period, then the counterparty shall owe a penalty to Zuyd, after the expiry of a time limit specified for that purpose and without judicial intervention, of a percentage, as yet to be determined, of the total or maximum price associated with the agreement, with a minimum of €2,250 plus turnover tax, for every day that the shortcoming continues, up to a maximum of 10% of the total or maximum price. If compliance remains permanently impossible for reasons other than force majeure, the penalty is immediately owed in full.
2. The penalty is due to Zuyd without prejudice to any other rights or claims, including:
 - a. its claim for fulfilment of the agreed obligation to deliver the services
 - b. its rights to additional compensation.
3. The penalty shall be offset against payments owed by Zuyd, regardless of whether the claim for payment of the penalty has passed to a third party.

Article 26. Force majeure

1. If a situation of force majeure occurs, the counterparty is obliged to immediately notify Zuyd of this matter in writing. Zuyd has the right, for four working days after receiving this notification, to terminate the agreement early in accordance with the provisions in Article 19 or to determine, in consultation with the counterparty, a period during which the parties postpone the fulfilment of the agreed obligations pending the possible discontinuance of the force majeure situation. If the counterparty, after the agreed period, is unable to or fails to fulfil its obligations under these provisions due to force majeure, Zuyd has the right to dissolve the agreement extrajudicially by means of a registered letter with immediate effect, without the counterparty gaining any right to compensation in the process.
2. Force majeure shall in any case not include: insufficient availability of sufficiently qualified staff, staff illness, strikes, delayed supply or unsuitability of materials or of software, insofar as these circumstances occur on the part of or through the actions of the party unable to or failing to fulfil its obligations. Furthermore, force majeure does not include the non-compliance or failure of third parties engaged by the counterparty and/or liquidity or solvency problems on the part of the counterparty or third parties engaged by the counterparty.

Article 27. Personnel

The parties are not entitled to employ staff of the counterparty or to negotiate employment with that staff without the written permission of the counterparty during the performance of the agreement and/or within one year after termination of said agreement. This permission will not be withheld on unreasonable grounds.

Article 28. Follow-up agreement

The counterparty can derive no rights from the agreement with regard to entering into a follow-up agreement. The counterparty is obliged to ensure that Zuyd's rights with respect to entering into follow-up agreements are not limited in any way by the applicability of rights of the counterparty or third parties, including – but not limited to – patent rights, intellectual property rights, and obligatory protocols, other than that which was made known to Zuyd by the counterparty prior to the commencement of the agreement.

Article 29. Insurance

1. The counterparty declares that it is adequately insured and shall remain insured for the performance of the agreement for professional liability and other liabilities that may be applicable.
2. It is sufficient for the counterparty to present the insurance policy, a broker's statement, or a copy of the insurance certificate issued by the insurance broker, which shows that the counterparty is sufficiently insured.
3. The counterparty is obliged, at Zuyd's first request, to allow Zuyd to inspect the documents mentioned in paragraph 2 without delay. The counterparty shall not terminate the insurance agreements or the conditions under which they have been entered into without prior written permission from Zuyd.
4. Nor shall the counterparty change the insured amount to the detriment of Zuyd without prior written permission. The insurance contributions owed by the counterparty are deemed to be included in the agreed prices and rates.
5. The liability referred to in the first paragraph of this article is limited to €1,000,000 per occasion with a maximum of €2,000,000 per year.

Article 30. Intellectual property rights and usage rights

1. If intellectual property rights and/or other (similar) rights to the performance and/or all that is associated with the performance are vested in the counterparty or third parties, the counterparty is obliged, with respect to those rights, to grant or cause to be granted to Zuyd, automatically and immediately, a non-exclusive, non-cancellable licence or sub-licence for use for an indefinite period of time, which includes the right to resell the performance delivered by the counterparty and/or all that is associated with the performance to third parties. The fee for this licence or sub-licence for use is included in the price of the performance and/or in all that is associated with that performance.
2. The counterparty guarantees the free and undisturbed use of the performance and/or of all that is associated with the performance by Zuyd, or by third parties to whom Zuyd has subsequently delivered the performance and/or all that is associated with the performance and guarantees that the performance and/or all that is associated with the performance does not infringe either wholly or in part on any intellectual property right or any other (similar) right of third parties. The counterparty indemnifies Zuyd against all claims or potential claims from third parties relating to any infringement on intellectual property rights and on other (similar) rights of those third parties and shall reimburse Zuyd for all costs and damages that are the consequence of any infringement or alleged infringement, including the entire costs of legal assistance.
3. By way of derogation from the provisions of Article 30.1 of these purchasing conditions, all intellectual property rights and other (similar) rights to a specific performance developed for Zuyd and/or accompanying performance are vested in Zuyd. The rights of the counterparty are transferred by the counterparty to Zuyd on the basis of these provisions, and the transfer shall be immediately accepted by Zuyd after such rights come into existence.
4. Insofar as a further deed would be required for the transfer of such rights, the counterparty will irrevocably authorize Zuyd to draw up such a deed and sign it on behalf of the counterparty, without prejudice to the counterparty's obligation to render assistance to the transfer of these rights on Zuyd's first demand, without being permitted to attach conditions thereto. Any costs associated with the establishment of certain intellectual property rights shall be borne by Zuyd. The counterparty hereby irrevocably authorizes Zuyd to have the transfer of these intellectual property rights entered into the appropriate registers.
5. The rights referred to in paragraph 3 include, but are not limited to:
 - a. all acts, including the permanent or temporary reproduction of a part or all or an adaptation of information, results, performances, and information carriers, that may be necessary or useful with a view to the purposes for which these acts are, appear to be, or may be intended and/or suitable
 - b. loading, displaying, executing, transferring, and storing digital information or adaptations thereof, for the purpose of maintenance, correcting errors, fighting viruses, making potential improvements, transferring content to another environment, connecting it and/or making it interoperable with other hardware and system software and other software, altering parameters, adding, altering, or removing security features, creating, storing, and altering back-up copies, and examining and testing the information carrier.
6. If a difference of opinion should arise between the parties regarding the ownership of the information carriers or the intellectual property rights thereto, it shall be assumed that the ownership is vested in Zuyd, unless the counterparty is able to prove that the ownership is vested in them.
7. The counterparty shall not make the performance/results of its work available to third parties in whatever form or to whatever extent, nor to provide third parties with any information in this regard, unless Zuyd has expressly granted its permission for this in writing. Zuyd is entitled to attach conditions to the granting of this permission, such as payment by the counterparty of a royalty fee to be determined by Zuyd in mutual consultation.
8. The counterparty shall ensure that the performance carried out does not infringe on the industrial and/or intellectual property rights of third parties, including: personality rights, claims relating to 'know-how', and unlawful competition. The counterparty indemnifies Zuyd against any claims resulting from any infringements of the rights referred to in this paragraph and it shall compensate Zuyd for all costs, damages, and interest that arise from such an infringement.
9. Without prejudice to the other provisions, Zuyd is entitled, if Zuyd is held liable by third parties in respect of infringement of industrial and/or intellectual property rights, to dissolve the agreement fully or partially by means of a letter and out of court. Zuyd shall not make use of its right to dissolve the agreement until after prior consultation with the counterparty.
10. In the event of infringement of the provisions of this article, the penalty clause in Article 25 shall apply.

Article 31. Transfer of rights and obligations

1. The parties are not entitled to transfer, alienate, or encumber the rights and/or obligations arising from the agreement to a third party without the written permission of the counterparty, with the exception of the right to remuneration. Permission shall not be refused without reasonable grounds. The parties may attach conditions to this consent.
2. The counterparty is entitled, with Zuyd's consent, to transfer rights relating to the agreement within the group in the event of a takeover or a transfer of the shares. If the counterparty intends to create such a situation or foresees such a situation, it must notify Zuyd of this immediately.

Article 32. Confidentiality

1. The parties undertake reciprocally to maintain confidentiality with regard to all the information provided to them in connection with the performance of the agreement. They further undertake to use this information solely within the context of the performance of the agreement. Among other things, this means that they shall not disclose this information to third parties, shall not make copies of this information other than necessary for the performance of the agreement, and shall not use the information for commercial purposes.
2. The parties shall ensure that the obligations set out in paragraph 1 shall be closely observed by all persons working for them.
3. The obligations referred to in the previous paragraphs do not apply, insofar as the information concerned:
 - a. was already proven to be in the possession of one of the parties at the time that this information was provided to that party
 - b. is or has become generally known and this knowledge is not the result of non-compliance by one of the parties with respect to the obligation described in this article
 - c. is communicated, without obligation of confidentiality, to one of the parties by a third party that had the right to provide that information
 - d. is required to be disclosed under the Dutch Public Access to Government Information Act
 - e. is made available to third parties with the consent of the counterparty, with or without conditions.
4. Neither of the parties shall report on the performance/results or execution of the agreement in publications or advertising messages – whether or not with the use of information carriers or data carriers – without the written permission of the counterparty.
5. In the event of infringement of the provisions of this article, the penalty clause in Article 25 shall apply.

Article 33. Applicable law

This agreement is governed by Dutch law.

Article 34. Competent court

1. Any differences of opinion between Zuyd and the counterparty shall be resolved in an amicable fashion as much as possible. If a difference of opinion is not resolved in an amicable fashion, a dispute is deemed to exist.
2. All disputes, including those considered such by only one of the parties, which arise as a result of or in connection with the interpretation or enforcement of these provisions or the agreement, shall only be submitted to the competent court in Maastricht, unless the parties consent to another form of dispute resolution.

Article 35. Final provision

1. Zuyd can establish further conditions for the performance of the agreement.
2. Unless agreed otherwise, all communication relating to the agreement, regardless of the format, will be made in Dutch.
3. These conditions may be cited as: the General Purchasing Conditions of Zuyd University of Applied Sciences.