

---

## **GENERAL TERMS OF DELIVERY AND PAYMENT**

### **Preamble**

These General Terms are applicable to our quotations and to agreements concluded by us, including agreements associated with the latter, except for such modifications as are explicitly agreed to in writing between both parties.

### **1. Quotation and Acceptance of Order**

Our quotations are without engagement. An agreement is only concluded through our written acceptance of order. The contents of the agreement are determined exclusively by this acceptance of order. Any alterations in and/or additions to this agreement must also be agreed to in writing.

### **2. Price**

2.1 Prices are based on the agreed scope of supply, delivery time, mode of delivery, and terms of payment.

2.2 We reserve the right to modify the prices if any changes occur in the factors referred to in 2.1. above (regardless of whether such changes were foreseeable or not at the time of mailing of our acceptance of order) through causes for which the principal is responsible.

Moreover, we reserve the right to adjust the prices if any changes arise in:

- a. wages and allowance, including National Insurance contributions,
- b. prices of materials, raw materials and parts procured from third parties, if, and as far as, these changes can be determined on the basis of the official index figures in the Netherlands.

2.3 Price modifications under the provisions of Art. 2.2. will be communicated to the principal with the least possible delay and in writing, whereupon these modifications shall become binding.

### **3. Conditions of Payment**

3.1 Our quotations are based on the conditions of payment as mentioned in our quotation.

3.2 All payments shall be made into an account to be indicated by us, without any deductions or compensation.

3.3 All costs associated with giving security for payment shall be payable by the principal.

3.4 If in deviation from Art. 3.1. payment must be made on presentation of transport documents, such payments may also be collectable on presentation of a warehouse receipt, of transport cannot be effected due to circumstances beyond our control. For this purpose, the principal shall make proper arrangements with his bank.

3.5 If the principal fails to make payment at the appointed dates, the amounts due shall be increased by the London Inter Banking rate effective at the time of default, plus 2%. The increase will be charged over the period during which the principal remains in default.

### **4. Time of delivery**

4.1 The time of delivery indicated in our acceptance of order recommences at the date at which we have received from the principal the first instalment as provided in Art. 3.1., payment securities for the remaining instalments, as well as all information and materials required to initiate and proceed with execution of the work, including any sample materials required. If the commencing date is postponed, the time of delivery will be adapted accordingly. If the first instalment is not received within three months from the date on our acceptance of order, we shall have the right to terminate the agreement, regardless of our entitlement to compensation.

4.2 If, due to circumstances beyond our control, we are unable to meet delivery deadlines, we shall ensure that the goods are expertly stored for the principal's account and risk, without prejudice to the principal's obligation regarding timely payment of any instalments due.

### **5. Delivery**

5.1 Delivery is effected "ex works" unless otherwise agreed. The conditions underlying any mode of delivery shall be established in accordance with the ICC Inco Terms, effective at the date mentioned in the acceptance of order.

5.2 a. If notwithstanding the provisions of Art 3.1. of the present Terms, delivery has been completed before the total amount due under the agreement has been paid in full, or if for any amount payable no security has yet been received by us, the goods delivered shall remain our property.

b. If in deviation from the provision of Art. 15., the agreement should not or not wholly be subject to the Law of the Netherlands, and if the Law then applicable does not allow such property proviso, we shall enjoy all other rights granted to us under the said Law, with priority over any other rightful claimants to the goods. The principal shall at all times give full cooperation, and offer unhindered access to the goods delivered, in enabling us to record and exercise these rights. The principal shall at least until full payment of amounts due has been made to us, maintain the goods delivered in good condition and shall have them covered by adequate insurance.

c. The principal shall not have the right to pledge the good , or give them as a security to third parties, before full payment of the amounts due has been made to us.

5.3 If after having been declared in default by us the principal fails to make payment in full of the total amount due under the agreement, we shall have the right to repossess the goods without judicial interposition.

**6. Acceptance and Guarantee**

6.1 The principal shall be deemed to have accepted the goods as soon as the goods have been delivered as agreed and, if so agreed, have been commissioned by us, and as soon as any trial runs and agreed acceptance tests (for the purpose of which the principal shall provide us with all the necessary auxiliary materials, raw materials and other materials of adequate quality and in a sufficient quantity, without any cost to us) have been successfully completed or, in case such acceptance tests have been agreed on and the principal fails to provide the above mentioned materials, three months after we have notified the principal of the goods being ready to undergo the acceptance tests.

6.2 Purchaser will enable us to implement those changes and improvements which we deem necessary.

6.3 We guarantee the soundness of the construction of all goods supplied by us, and of the materials used in their manufacture, for the period mentioned in 6.5. below. Any defects covered by this guarantee shall be repaired by us free of charge and we shall reimburse the labour costs which the principal at our written request has incurred in connection with such repair. The guarantee does not cover parts and components that are subject to normal wear, routine change parts and electrical components. This guarantee shall come into effect as soon as erection and assembly operations have been completed.

6.4 All guarantee periods expire six months after the erection and assembly operations have been completed and in any case twelve months after delivery of the goods. The principal shall be notified by us in writing of the completion of the erection and assembly operations.

6.5 Any delays in the execution of the agreement which are attributable to the principal, shall not constitute a reason for extending the periods mentioned in 6.4./6.5. above.

6.6 The guarantee provisions shall only be applicable if:

- a. the payment obligation are fulfilled,
- b. the operating instructions are strictly observed,
- c. proper maintenance is effected,
- d. the principal or a third party does not mount and/or repair the goods supplied and/or does not put them into operation without our permission in writing,
- e. we are notified in writing of any claims under the guarantee, immediately after a defect has occurred.

6.8 The guarantee given by us for parts and components procured from third parties does not exceed the guarantee given to us by these third parties.

**7. Liability**

We assume no liability for:

- a. Any claim from third parties concerning a violation of their patent, licence, trademark, model and other rights howsoever named relating to goods supplied by us, if and as far as we have violated such by utilizing information made available to us by or on behalf of the principal for the purpose of carrying out the order.
- b. Any indirect and/or consequential damage such as, but not restricted to, trading loss, loss of profits, devaluation of or damage to items of property, loss of goodwill and reputation, suffered by the principal and/or non by third parties as a result of non-delivery and/or non-functioning or late delivery and/or improper functioning of the goods.
- c. Damage to other properties of the principal.
- d. Any damage or physical injury resulting from plant management or maintenance operations performed by the principal contrary to our operating or maintenance instructions, or resulting from any alteration made to the goods without our explicit written consent. The principal shall indemnify us fully against any liability for such damage or physical injury.

**8. Termination or nullity of the agreement**

In the event of termination or nullity of the agreement for any reason whatsoever, the present General Terms shall remain in force in so far as they are of independent significance and/or in so far as they have been specifically stipulated for the purpose of settling the consequences of such termination or nullity, non-restrictive examples in point being in the stipulations and provisions made in connection with delivery, penalty clauses, liability, jurisdiction and applicable law.

**9. Penalty clauses**

If and as far as the agreement includes any penalty clauses, these shall be deemed to be the instruments for the complete and only possible settlement of any damage suffered.

**10. Force majeure**

10.1 Force majeure is defined as any situation (irrespective as to whether or not this situation was foreseeable at the time of acceptance of the order) due to which parties are prevented, either permanently or temporarily, from meeting their obligations, including such conditions as strike, lock-out, casting faults, government intervention, state of war and siege, fire, catastrophe, epidemics and similar conditions, or conditions imputable to sub-contractors.

10.2 All cases of force majeure shall be reported by the party affected within two weeks of their occurrence, and shall constitute a reason for the suspension of mutual obligations. In case the force majeure situation continues for a period exceeding twelve months, both parties have the right to dissolve the agreement.

---

**11. Drawings and documentation**

11.1 Any illustrations, catalogues, technical specifications and computer programs supplied by us, shall remain our property and are not binding, unless explicitly agreed otherwise in the acceptance of order. The principal shall be responsible for preventing these documents from being copied and/or being handed over or given for inspection to third parties without our prior consent. We shall not be under an obligation to provide detailed drawings.

11.2 Any illustrations, catalogues, drawings, size and weight specifications, supplied to us by the principal, shall remain the principal's property. They shall not be copied and/or handed over or given for inspection to third parties if so requested by the principal.

11.3 The goods to be supplied shall be designed and manufactured on the basis of Dutch standards and regulations. Any adaptations to standards and regulations applicable at the principal's place of business can be made by us for the principal's account and at his risk, provided such standards and regulations are made know to us in good time.

**12. Erection and commissioning**

If and as far as it has been agreed by us to carry out the erection and/or commissioning operations, or to supervise and/or assist in the erection and/or commissioning operations, our General Conditions governing erection, commissioning and servicing operations shall be applicable.

**13. Parts**

13.1 The present terms are also applicable to the supply of parts, as far as these terms are not explicitly overruled by what follows.

13.2 We undertake to supply parts to our principals for a period of six years from the date of the original supply.

13.3 We have the right to supply parts that are different from the parts ordered from us, on condition that such parts will be at least equivalent to the parts supplied originally.

13.4 The installation of the parts is not included in the price.

13.5 Parts are supplied under a guarantee expiring six months after the date of despatch ex-works.

13.6 Any parts found defective on receipt, may be returned to us. They will be credited to the principal on condition that:

- a. the defect has been made known to us within ten days after receipt of such parts and that we agree to these parts being returned,
- b. the parts have not been used,
- c. The principal has procured all documents required to effect the return,
- d. the order number is stated on the documents.

**14. Disputes**

Any disputes shall be adjudged exclusively by the competent Court in Amsterdam.

**15. Law**

The present Terms shall be subject to the Law of the Netherlands.

## **GENERAL CONDITIONS GOVERNING TECHNICAL ASSISTANCE AND ERECTION, COMMISSIONING AND SERVICING OPERATIONS**

### **Preamble**

Unless stated specifically otherwise in the provisions below, these operations are subject to our General Terms of Delivery and Payment.

### **1.0 Definitions**

- 1.1 Erection operations are all operations performed outside our factories (including all preparatory work and inspections on the erection site) in connection with the assembly of a machine and/or installation on the site agreed between principal and supplier, up to the point where the machine and/or installation is ready for the mechanical test run.
- 1.2 Commissioning operations are all operations performed from the commencement of the mechanical test run up to transfer of the machine and/or installation to the principal.
- 1.3 Servicing operations are all operations performed outside our factories and not coming under Articles 1.1. or 1.2. above, such as repair work or work carried out under terms of guarantee.
- 1.4 Technical assistance includes all operations relating exclusively to directions and advice given in connection with operations as defined in Articles 1.1. through 1.3. above.

### **2.0 Price**

- 2.1 If the operations have been accepted at a specified price, this price shall not include the expenses mentioned in Article 2.3. below.
- 2.2 Except in the case mentioned in Article 2.1. above, the following costs shall be charged for operations as defined in Article 1.:
- 2.2.1 Costs in accordance with the rates specified in the latest quotation.
- 2.2.2 Travelling expenses in the broadest sense of the term, including visa and insurance charges associated with these travelling expenses.
- 2.2.3 The costs of materials to be used and to be processed, as far as these materials are not parts of machines and/or installations already ordered separately for the principal's account and at his risk.
- 2.2.4 Charges associated with relevant telephone calls made on the site of the operations, and with telefax messages or postage, as far as these facilities are not made available by the principal free of charge.
- 2.3 In the event of a delay arising in the operations through circumstances beyond our control and/or circumstances for which we cannot be held accountable, any expenses, such as expenses associated with waiting periods or additional travelling and accommodation expenses, ensuing from such circumstances shall be payable by the principal.

### **3.0 Validity**

- 3.1 The rates mentioned in Article 2.2.1. and appended to, or included in, quotations are liable to adjustment from time to time.

### **4.0 Facilities to be provided by the principal**

- 4.1 The principal shall make available the following facilities in good time, in consultation with us and without any expenses being chargeable to us:
- 4.1.1 Suitable hotel accommodation situated as close as possible to the site of the operations, as well as transport to the site of the operations.
- 4.1.2
- a. The buildings in a state fully prepared for the operations, foundations, water, steam, power, condensate, compressed air and coolant lines on the site of the operations, and the presence in good condition of the machine and/or installation that is the subject of the operations;
  - b. All electrician's and plumber's work, hoisting and demolition operations, excavation, bricklaying, carpentry, foundation and paintwork as far as such work is not integral with the machine and/or installation supplied by us, as well as any other work not specifically mentioned in our acceptance of order;
  - c. Such auxiliary materials as are deemed necessary by us for proper execution of the operations, such as hoisting gear, welding and grinding machines, oils and greases, cleaning and sealing materials, gas and oxygen, water and steam, electricity and compressed air; also adequate heating and lighting, insulation, ready-for-use scaffolding, means of transport, suitable access roads etc.;
  - d. A dry, lockable space for the storage of machine components, materials, tools etc. in the direct vicinity of the site, as well as timely transport of such components, materials etc. to this site;
  - e. A suitable room for our employees, including adequate theft protection, heating, lighting and washing facilities. Also canteen facilities, first aid and any provisions needed to protect persons and objects on the site of the operations;
  - f. All the safety precautions required by law, as far as such precautions are relevant to the operations, and the supply of full information respecting the applicable safety regulations to our employees. If these safety regulations are infringed, the principal shall notify us of such infringement;
  - g. The necessary permits, such as works permit and the permit that may be required for overtime work, if our employees have to work outside the working hours normally observed on the site of the operations, and the presence on this site of a person representing the principal during periods of overtime work;
  - h. The best medical care available if illness or accident should befall any of our employees during the performance of operations outside the Netherlands, and the cost ensuing from replacement of any disabled employee, as far as this cost is not covered otherwise. Also care and repatriation if one or more of our employees should die during the period in which the operations are carried out.
- 4.2 If the principal makes available any (auxiliary) labour to assist in erection or commissioning operations performed by the supplier, this must have been agreed in the formal order. The supplier is entitled to test such (auxiliary) labour for professional skill, and to disqualify such labour if he deems fit. In

that case the principal shall appoint suitably qualified substitutes.

Personnel of the principal which performs commissioning operations or which assists the supplier in performing commissioning operations, shall be personnel trained by the supplier, if such training forms part of the supplier's obligations.

4.3 In the event of the principal failing to make available the facilities specified in Article 4.1. and/or Article 4.2. in good time, the supplier may hold him liable for any ensuing costs, damages and interests.

## **5.0 Operations**

5.1 The operations shall not be complete until we have notified the principal of their completion.

5.2 The trial run and commissioning of a machine and/or installation shall not be complete until we have notified the principal of such completion. The principal shall provide the base materials, auxiliary materials and products of a good, uniform quality and in an adequate quantity required for the trial run without any expense to the supplier.

5.3 If desired, we shall instruct the principal and his personnel concerning the proper use of the machine and/or installation, against payment of a compensation.

## **6.0 Payment**

6.1 The principal shall sign periodically the time validation sheets filled out by our employees. These sheets form the basis for the invoice. If no time validation sheets are presented to him for signature, the principal shall notify us to that effect. The principal has the right to provide time validation sheets with comments. Time validation sheets which have been presented to the principal and which have remained unsigned without the principal giving any motivation in writing, shall be regarded as signed.

6.2 If the operations performed by us cover a period in excess of one month, we shall be entitled to submit an invoice every month for the operations carried out in that month and for other costs to be settled.

6.3 Payment of all invoices shall be made in Dutch currency within 30 days of the date of invoice into an account indicated by us, without the principal being entitled to any deduction or compensation.

6.4 If the principal fails to make payment at the appointed dates, the amounts due shall be increased by the London Inter Banking rate effective at the time of default, plus 2%. The increase shall be charged over the period during which the principal remains in default. We reserve the right to suspend operations if payments are overdue.

## **7.0 Operations by third parties**

7.1 We shall be entitled to have operations carried out by subcontractors.

## **8.0 Special operations**

8.1 If operations have to be performed on equipment other than that supplied by us, such operations shall be specified in a separate, written agreement.

## **9.0 Disclaimer**

9.1 We disclaim any liability for:

- a. indirect and/or consequential damage including, but not restricted to, trading loss, loss of profits, devaluation of or damage to items of property, loss of goodwill and reputation, suffered by the principal and/or by third parties as a result of non-delivery, improper delivery or late delivery of the agreed services and goods;
- b. damage to other property of the principal;
- c. damage or physical injury resulting from erection, commissioning, maintenance or plant management operations performed by the principal contrary to our directions. The principal shall indemnify us fully against any claims made with regard to such damage or physical injury;
- d. actions or negligence on the part of personnel made available to us by or on behalf of the principal, even though such personnel is bound to act in compliance with our instructions.

9.2 The principal shall be liable for any damage to, or loss of, material, equipment and tools brought by us to the site of the operations, unless such damage or loss is imputable to operations or actions performed under our responsibility.

9.3 In the event of our providing technical assistance, we shall not be liable for the correct and/or timely execution of operations by the principal.

## **10.0 Guarantee**

We guarantee the proper and expert execution of the operations ordered. This guarantee is also applicable to operations performed under our supervision and by skilled personnel, but only if and as far as such personnel meets the requirements imposed by us with regard to competence and behaviour, and acts in full compliance with our instructions, and only as far as any errors committed by this personnel could in fairness have been prevented by us. This guarantee comprises, and is limited to, gratuitous repetition of necessary of the operations ordered.

## **11.0 Disputes**

Any disputes shall be adjudged exclusively by the competent court in Leeuwarden.

## **12.0 Law**

The present conditions are subject to the Law of the Netherlands.