

GENERAL TERMS AND CONDITIONS OF PURCHASING AND (SUB)CONTRACTING

General Terms and Conditions of Purchasing and (Sub)Contracting of BUVO Castings BV in Helmond.

GENERAL

Article 1: Applicability

- 1.1. Client is the natural or legal person who uses these purchasing terms and conditions. The other party shall be referred to as contractor. In these terms and conditions the term the 'work' shall also be used to mean the execution of services.
- 1.2. Articles 1 to 16 of these terms and conditions shall apply to all offers made to client and all agreements concluded with client and to all agreements that may arise from these. If the offers or agreements relate to the (sub)contracting of work and/or the execution of services, articles 17 to 22 of these terms and conditions shall also apply.
- 1.3. Any deviations from these general terms and conditions of purchasing and (sub)contracting shall only apply if they have been confirmed to contractor in writing by client.
- 1.4. In the event of conflict between the content of the agreement concluded between client and contractor and these general terms and conditions, the provisions in the agreement shall apply.

Article 2: Costs related to offers

Client shall not reimburse any costs in connection with the making of offers or quotations including also the costs of advice, drawings, etc. incurred by or on behalf of contractor.

Article 3: Delivery time and penalty

- 3.1. The agreed delivery time and/or execution period shall be considered final deadlines. By exceeding the delivery time and/or execution period contractor shall be in default by operation of law. As soon as contractor knows or should know that the execution of the agreement will not take place or will not take place in time or properly, it must inform client of this immediately.
- 3.2. Contractor shall be liable for any damage suffered by client as the result of exceeding the delivery time and/or execution period as referred to in article 3.1.
- 3.3. For each day of delay in delivery contractor shall forfeit to client an immediately payable penalty of **to be determined** % of the total order amount or, in the case of processing of BUVO products, the annual turnover with a minimum of € **to be determined**.
- 3.4. The penalty referred to in article 3.3 may be demanded in addition to alternative and additional compensation by virtue of the law. Client is entitled to set off this penalty and/or compensation against amounts owed to contractor.

Article 4: Prices

- 4.1. The prices stated in the offer shall be based on Delivered Duty Paid at the agreed place, in accordance with Incoterms 2010. All prices are fixed, exclude VAT and include adequate packaging.
- 4.2. Price increases shall be and shall remain for the account of contractor, also after the formation of the agreement. This shall apply irrespective of the period that has elapsed between the date of conclusion of the agreement and its execution.

Article 5: Risk transfer

- 5.1. Delivery shall be made Delivered Duty Paid at the agreed place, in accordance with Incoterms 2010.
- 5.2. If the prices were agreed ex works and contractor nevertheless provides transport or arranges for it to be provided, the risk for loading and transport shall be for the account of contractor.
- 5.3. If the goods are collected by or on behalf of client, contractor shall provide assistance with loading free of charge.

Article 6: Inspection and testing

- 6.1. Client, its principal and the management of the work shall have at all times the right to inspect and test the ordered or delivered goods and/or the (ongoing) work. In this case contractor shall provide such facilities as may reasonably be required.
- 6.2. The costs of the testing referred to in article 6.1 shall be for the account of contractor if these goods/the work are rejected by client and/or its principal and/or the management of the work. Inspection or approval shall not release contractor from any warranty or liability arising from these terms and conditions, the agreement or legislation.

Article 7: Rejection

- 7.1. If the goods or the work delivered by contractor do not fulfil the requirements set in the order and/or specification, client shall have the right to reject them. Taking delivery of the goods or payment for the goods or the work shall not imply acceptance of them. Irrespective of any approval the goods and the work shall remain for account and risk of contractor.
- 7.2. If client rejects the delivered goods and/or the work, contractor shall within a period to be set by client:
 - repair the goods and/or the work free of charge or, at client's discretion;
 - replace the goods and/or carry out the work or have it carried out free of charge again in accordance with the agreement.
- 7.3. If contractor does not fulfil its obligation or does not fulfil it within the set period to client's satisfaction, client shall be entitled for account of contractor to perform or cause to be performed the work referred to in article 7.2 itself or by a third party. Client shall have the right to set off the costs incurred against amounts owed to contractor.

Article 8: Intellectual property rights

- 8.1. The term 'Intellectual property rights' shall be used to include copyrights, database rights, design rights, trademarks, patent rights, or the right to obtain these Intellectual property rights by petition, deposit, registration or any other means.
- 8.2. 'Intellectual property rights on the work' shall mean all Intellectual property rights that rest on the work, on the goods and on the resources such as drawings, models, moulds, dies and tools, formed during or for the execution of the agreement between contractor and client.
- 8.3. All Intellectual property rights on the work shall belong to client. Contractor shall transfer these rights in so far as possible now for then to client and on first request by client shall perform any additional actions required for the transfer immediately.
- 8.4. For the (transfer of) Intellectual property rights on the work client shall owe no compensation to contractor.
- 8.5. Contractor shall waive the moral rights referred to in article 25, paragraph 1 under a of the Copyright Act. In so far as changes in the work, the goods or their designation are concerned contractor shall moreover waive the moral rights referred to in article 25, paragraph 1 under b and c of the Copyright Act. Contractor shall not invoke the competence granted in article 25 paragraph 4 of the Copyright Act.



- 8.6. Contractor shall ensure that the goods to be delivered by it to client, the work to be performed and the Intellectual property rights on the work do not infringe any third-party rights, including also intellectual property rights and shall indemnify client against all claims on this account. Contractor shall reimburse client for all damage resulting from any infringement.

Article 9: Confidentiality

- 9.1. All models, design data, drawings and other documents, etc. provided to contractor by client, and also knowhow disclosed by client to contractor, shall be confidential and may not be used by contractor for any purpose other than to comply with the obligations arising from the agreement with client.
- 9.2. The confidential information referred to in article 9.1 shall not be published or reproduced by contractor, unless after written permission of client. If contractor has to disclose to its employees the confidential information given to it for execution of the agreement, contractor shall bind its employees to the confidentiality obligation in this agreement, before the information is disclosed to them by client.
- 9.3. If for the execution of the agreement contractor has to disclose the confidential information referred to in article 9.1 to (a) third party/parties, it shall also impose on this/these third party/parties a confidentiality obligation as stipulated in this article.
- 9.4. Contractor shall owe client an immediately payable penalty of 50% of the total order amount with a minimum of € 10,000 or, in the case of processing BUVO products, 20% of the annual turnover with a minimum of € 100,000, if it violates one or more of the above obligations.
- 9.5. The penalty referred to in article 9.4 may be demanded in addition to alternative and supplementary compensation by virtue of the law. Client shall have the right to set off this penalty and/or these damages against amounts owed to contractor.

Article 10: Non-competition

Except where there is prior written permission of client, contractor shall refrain from making quotations and/or offers to the principal relating to the work directly or through the mediation of third parties.

Article 11: Resources

- 11.1. All resources, such as drawings, models, moulds, dies and tools, that are made available by client to contractor for the execution of an agreement or that contractor has made or caused to be made within the framework of the agreement with client, shall remain or shall become under all circumstances the property of client, irrespective of whether costs are charged to the client for their production.
- 11.2. All resources and all copies made of these shall be made available to client or returned to client on the first request.
- 11.3. As long as contractor has possession of resources, contractor shall mark them indelibly to indicate that they are the property of client. Contractor shall indicate the client's ownership of these to any third party that may wish to seize them.
- 11.4. Without prejudice to the provisions in article 9 of these terms and conditions contractor may only use the resources referred to in this article to perform deliveries and work for client and may not show them to third parties, unless client has given explicit written permission for this. Contractor shall bear risk of loss or damage and shall insure this risk for own account.

Article 12: Liability

- 12.1. Contractor shall be liable for all direct and consequential losses resulting from a failure or illegal deed of contractor, its employees or auxiliary persons. This shall include any loss arising from the presence and/or the use of goods that contractor has involved in the execution of the agreement.



- 12.2. Contractor shall indemnify client fully against third-party claims for compensation of loss as referred to in the first section.

Article 13: Insurance

If requested contractor shall demonstrate to client's satisfaction that it, at its own costs, has provided adequate insurance that covers any loss suffered by client as the result of acts or omissions by the contractor and/or third parties used.

Article 14: Warranty

- 14.1. For a period of 24 months after putting into use contractor shall guarantee, unless agreed otherwise, that the goods and work delivered are of good quality, free from construction, material and manufacturing faults and that they fulfil the agreement. If the goods or work delivered have not been put into use within 12 months after delivery, the warranty shall apply for a period of 12 months after delivery.
- 14.2. Contractor shall repair all defects in the goods and/or the work during the warranty period immediately and in consultation with client or, at client's discretion, replace the defective goods or (parts of) the work.
- 14.3. Contractor shall bear all costs connected with the repair of the fault, or the replacement of the goods and/or the work. These costs shall also include the costs for returning the goods and/or the work to operation after above-mentioned repair or replacement. If the goods and/or the work form part of a larger object, the costs for returning this larger object to operation shall also be for account of contractor.
- 14.4. If contractor remains in default of its warranty obligation included in this article, client shall have the right for account and risk of contractor to perform the warranty work itself or to cause it to be performed by third parties. Client may set off the costs incurred for this against amounts owed to contractor.

Article 15: Payment

- 15.1. Payment shall be made as far as possible within the agreed payment term, unless after receipt of the goods – including the corresponding documents – a complaint is made by client concerning the quantity and/or quality of the goods delivered.
- 15.2. In the case of payment in advance or periodic payment client shall have the right to demand that contractor provides sufficient guarantee of fulfilment in the client's opinion. If contractor does not provide this within the set period, it shall be immediately in default. In this case client shall have the right to dissolve the agreement and recover its damage from contractor.
- 15.3. Client shall be entitled at all times to offset any amounts that parties may have to claim from each other.
- 15.4. Client shall retain the right to pay contractor the social security contributions and payroll tax owed by contractor with respect to the work, for which client is liable pursuant to the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act, by payment into its blocked account (G-account) or into the deposit held for contractor by the Tax Collectors Office.
- 15.5. Without prejudice to the provisions in the previous paragraph client shall be entitled at all times to deduct the above-mentioned amounts of social security contributions and payroll tax from the (sub)contracting sum and to pay these directly to the Tax Collectors Office on behalf of contractor.

Article 16: Applicable law and choice of forum

- 16.1. The law of the Netherlands shall apply.
- 16.2. The Vienna Convention on Contracts for the International Sale of Products (C.I.S.G.) shall not apply, nor any other international regulation whose exclusion is permitted.
- 16.3. Only the Dutch civil court that has jurisdiction in the place of registered office of client may take cognisance of disputes, unless this would be contrary to mandatory law. Client may not deviate from this rule of jurisdiction and apply the statutory rules governing jurisdiction.
- 16.4. Parties may agree a different form of dispute resolution such as, for example, arbitration or mediation.



(SUB)CONTRACTING/SERVICES

Article 17: Prohibition on assignment/pledging

Contractor shall be forbidden from assigning, pledging or transferring ownership under any title whatsoever its claims against client arising from the agreement without permission of client.

Article 18: Obligations of contractor

18.1. The contractor is obliged to:

- a. have a valid proof of registration from the relevant Employee Insurance Schemes Administration Office (UWV), in so far as this is provided by the Office. Contractor must show this proof of registration to client if requested;
- b. if requested provide client with a recent extract (no older than three months) from the Trade Register of the Chamber of Commerce;
- c. hand over to client a list of all employees to be employed for the work as well as hand over once only for each employee (before the employee commences work) a copy of a valid proof of identity and, upon request, hand over pay slips;
- d. hand over to client a man-days register, that states for each employee of contractor the name, address, postcode, domicile, citizen service number, date of birth and number of hours worked and on which date;
- e. strictly fulfil all obligations towards the employees employed by contractor;
- f. strictly fulfil all statutory obligations with respect to the payment of social security contributions and payroll tax related to the work assigned to it and moreover strictly comply with the applicable Collective Labour Agreement;
- g. automatically provide a periodic statement with respect to its payment of payroll tax and social security contributions, as referred to in the guideline(s) established within the framework of the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act;
- h. if requested, prepare weekly reports in accordance with a model approved by client and present these weekly reports, completed and signed, to client every week for approval;
- i. if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act is applicable, set up its administration in such a way that the following documents or data can be retrieved immediately or almost immediately:
 - the agreement or the content of the agreement based on which contractor has performed the work delivered by it to client;
 - the data regarding the fulfilment of this agreement including a registration of the persons who are engaged on the work and of the days/hours during which these persons have performed the work;
 - the payments that were made under the above-mentioned agreement;
- j. upon request, provide client free of charge with all information for its own administration and/or for the administration of its principal;
- k. if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act is applicable, have at its disposal the original blocked account agreement and show this on client's request, unless parties have agreed that based on article 15.4 client shall deposit directly into the deposit held for contractor by the Tax Collector's Office.

18.2. If contractor has not (yet) fulfilled its obligations in paragraph 1, client shall only be obliged to make payment after it has received the missing data and processed these in its administration and/or contractor has fulfilled any other obligations.

Article 19: Organisation of the work

19.1. The contractor shall be obliged to exclusively follow orders and instructions given by client.

19.2. Client shall be authorised to deny employees of contractor access to the work or to remove them or cause them to be removed, for example on account of unsuitability, disorderly conduct, misconduct, etc., without further reimbursement of any damage that contractor suffers as a result thereof.



- 19.3. The work and break times at the work site and the rest days, public holidays, holidays or other free days recognised generally or at the location of the work site, or prescribed by public authorities or pursuant to any Collective Labour Agreement, shall also apply to contractor and its employees who execute work at the work site. The contractor may not recover any losses arising from this from client. The latter shall also apply if the services of contractor cannot be used on account of strike or other causes at the client or at third parties.
- 19.4. Unless agreed otherwise from the start of the work until completion contractor shall ensure that a permanent foreman is present at the work, with whom both organisational and technical arrangements can be made. His name must be known to the persons or institutions designated by client.
- 19.5. Contractor should provide its employees with the correct personal protective equipment and supervise its (correct) use. All costs arising from this shall be for account of contractor.
- 19.6. All necessary insurances and the excess of any CAR policy taken out for the work shall be for account of contractor.
- 19.7. Contractor shall arrange for such manpower that the execution of the work is completely in line with the plan drawn up by client and that other work does not come to a halt. If client changes the plan/progress contractor shall make the appropriate adjustments. Changes to manpower shall only be permitted following approval by client.
- 19.8. As prescribed by the Motor Insurance Liability Act (WAM), contractor shall ensure that the working materials subject to the WAM supplied by it are insured. With regard to the working materials subject to the WAM which are rented by contractor, it must be proven to contractor's satisfaction that these materials comply with the above-mentioned insurance obligation. Furthermore, contractor is obliged to have an adequate insurance for the work risk of the working materials subject to the WAM supplied by it.
- 19.9. With regard to cables, pipes and other property above and below ground belonging to third parties contractor shall remain at all times responsible for arranging for the determination of their location. Contractor must inform client immediately of any damage.
- 19.10. Any equipment required such as scaffolding, elevating work platforms, hoisting equipment and small materials, including hand tools, measuring equipment, mobile scaffolding, ladders and stepladders, etc., shall be provided by contractor and shall be included in the total price.
- 19.11. If work has to be performed on or to parts of the work which have already been completed, such as plastered walls, tiling, paintwork, etc., contractor must take protective measures to prevent damage and/or soiling. Damage and/or soiling which is detected after or during the work shall be deemed to have been caused by contractor.
- 19.12. On completion of the work contractor must deliver the work in a clean condition and leave the construction site neat and tidy.

Article 20: Invoicing

- 20.1 Without prejudice to the provisions in article 18.2, the client shall only approve an invoice for payment provided the work, or the part of it to which the instalment relates, has been completed to contractor's satisfaction and provided the invoice fulfils the formal requirements applicable to this as set out in article 20.2.
- 20.2 The invoice must comply with the statutory requirements as laid down in the Law on Turnover Tax. The contractor should in any case state the following details clearly and in a well-organised manner:
 - a. the date of issue of invoice;
 - b. a consecutive invoice number, with one or more series, so that the invoice can be identified clearly;
 - c. the client's name and address;
 - d. the contractor's name and address;
 - e. the number of the agreement;
 - f. the work and the location(s) at which work has been executed, to which the invoice relates;
 - g. the time period and the execution to which the invoice relates;
 - h. the number of man-hours worked, the amount of the labour costs and (separately) the percentage of payroll tax on the salary amount, if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act is applicable;
 - i. statement whether the reverse-charge mechanism relating to VAT applies or not and in the latter case the amount of VAT;
 - j. the VAT identification number of the contractor that has carried out the delivery or the service;
 - k. the VAT identification number if the VAT payment has been transferred to client;
 - l. the invoice amounts, divided for each rate and subsequently subdivided into unit prices and any discount applied.



Article 21: Statutes and regulations

- 21.1. Contractor must comply with all statutory and other regulations, terms and provisions applicable to the work, and all regulations and terms applicable by virtue of the agreement on this work concluded by client with its client.
- 21.2. Contractor shall be responsible at its own expense for any permits required and safety measures to be taken in connection with the delivery to be made and the performance of the work for which it has been contracted.

Article 22: Execution by third parties

- 22.1. Without prior written permission from client, may contractor may not transfer or subcontract the order, or any part of it, or its execution to a third party.
- 22.2. If contractor contracts out the work, or a part of it, to a third party, it must draw up a written agreement with respect to this immediately. The terms and conditions of this agreement must correspond with the agreement concluded for the work between client and contractor, where contractor and third party mutatis mutandis take the (legal) position of client and contractor, respectively.
- 22.3. Transfer/subcontracting shall not affect contractor's obligations towards client by virtue of the agreement.
- 22.4. Without prejudice to the provisions in articles 22.1, 22.2 and 22.3 contractor shall not be authorised to use the workers made available to it until after prior written permission of client. When contracting work out or hiring workers in as referred to above, contractor shall be obliged to comply with the administrative regulations in the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act 2004.

