

GENERAL TERMS AND CONDITIONS OF PURCHASING, CONTRACTING AND SUBCONTRACTING
General terms and conditions for purchasing, contracting and subcontracting of TOBROCO Machines in
Oisterwijk, filed with the Chamber of Commerce at Worden under number 18078840)

GENERAL

Article 1: Applicability

- 1.1. Client is the natural or legal person who applies these terms and conditions of purchasing. The counterparty is denoted as contractor. In these terms and conditions, 'the work' shall also be understood to mean the performance of services.
- 1.2. Articles 1 to 16 of these terms and conditions apply to all the offers made to the client and agreements entered into with the client and all agreements that may be the result of this. If the offers or agreements apply to contracting or subcontracting of work and/or the performance of services, articles 17 to 22 of these terms and conditions also apply.
- 1.3. Any deviations from these general terms and conditions for purchasing, contracting and subcontracting are only valid when they are confirmed by client to contractor in writing.
- 1.4. In case of a conflict between the content of the agreement entered into between the client and contractor and these general terms and conditions, the provisions of the agreement shall apply.

Article 2: Costs of offers

- 2.1. Any costs associated with making offers or quotations, including the costs of advice, drawing work, etc. made by or on behalf of the contractor will not be compensated by the client.

Article 3: Delivery time and fine

- 3.1. The agreed delivery time and/or execution period are statutory limits. By exceeding the delivery time and/or execution period, the contractor will be legally in default. As soon as contractor knows or should know that the agreement will not be performed, be late or not be performed properly, it must notify client of this immediately.
- 3.2. Contractor is liable for all damages that are incurred by client as a result of exceeding the delivery time and/or execution period as referred to in article 3.1.
- 3.3. For every week of delay in the delivery, contractor shall forfeit to client a fine payable immediately of 2% of the total order amount with a minimum of €500 to a maximum of 15% of the total order amount.
- 3.4. On the basis of the law, the fine stated in article 3.3 can be claimed aside from replacement and additional compensation of damages. Client has the right to deduct this fine and/or compensation of damages from amounts owing to contractor.
- 3.5. Client reserves the right to delay delivery by up to 28 days before the agreed delivery date. In this case, supplier shall robustly package the items separately and identifiably and store, conserve, safeguard and insure them at its expense.

Article 4: Prices

- 4.1. The prices stated in the offer are based on delivery to the agreed place "delivered duty paid" (DDP) according to Incoterms '2010'. All prices are fixed, excluding VAT, including robust packaging.
- 4.2. Price increases are and remain at the contractor's expense, even after the agreement is entered into. This is not affected by the period that has elapsed between the date of entering into the agreement and its execution.

Article 5: Risk transfer

- 5.1. Delivery will be made to the agreed place "Delivered Duty Paid" according to Incoterms '2010'.
- 5.2. If the prices are agreed upon 'ex works' and the contractor still provides or arranges transport, the loading and transport will be at the contractor's risk.
- 5.3. If the items are collected by or on behalf of client, contractor must provide help with loading without charging costs for this.

Article 6: Inspection and testing

- 6.1. Client, its principal and the management of the work, are entitled to inspect or to test the items ordered or delivered and/or the work to be done or in progress at any time. In that case, contractor will arrange such facilities as can reasonably be expected for this.
- 6.2. The costs of the inspection referred to in article 6.1 will be at the contractor's expense if these items/the work are rejected by the client and/or its principal and/or management of the work. Inspection or approval does not discharge contractor from any guarantee or liability as they ensue from these conditions, the agreement or the law.

Article 7: Rejection

- 7.1. If the items delivered by contractor or the work delivered do not meet the requirements and/or specifications described in the order, client has the right to reject it. Taking receipt of the items or payment for the items or the work does not entail acceptance thereof. Regardless of any approval, the items and the work remain at the expense and risk of the contractor.
- 7.2. If the client rejects the delivered items and/or the work, contractor shall undertake to do the following within a period to be determined by client:
 - provide repair at no cost or, at the client's choice;
 - to arrange replacement of the items at no cost and/or still to perform the work (or have this done) in accordance with the agreement.
- 7.3. If the contractor does not meet its obligation as referred to in article 7.2 within the set period or to the satisfaction of the client, client is entitled to do the work stated in article 7.2 itself or have it done by a third party at contractor's expense. Client has the right to deduct the costs incurred from the amounts owing to the contractor.

Article 8: Intellectual property rights

- 8.1. Among other things 'intellectual property rights' shall be understood to include copyrights, database rights, design rights, trademark rights, patent rights, or the right to obtain these intellectual property rights by application, filing, registration or otherwise.
- 8.2. 'Intellectual property rights to the work' are all the intellectual property rights that apply to the work, on the items and on the aids such as drawings, models, moulds, dies and tools created in or for the purpose of the execution of the agreement between contractor and client.
- 8.3. All intellectual property rights to the work shall accrue to client. Contractor shall transfer these rights insofar as possible now and for the future to client and shall upon first request of client perform any additional actions required for the transfer without delay.
- 8.4. Client shall not owe any compensation to contractor for (the transfer of) the intellectual property rights to the work.
- 8.5. Contractor waives the personality rights stated in article 25, paragraph 1 sub a of the *Auteurswet* [Copyright Act]. Insofar as this concerns changes to the work, the items or the naming thereof, contractor furthermore waives personality rights stated in article 25, paragraph 1 sub b and c of the Copyright Act. Contractor shall not call on the right given in article 25 paragraph 4 of the Copyright Act.
- 8.6. Contractor shall ensure that the items to be provided by it to client, work to be done and the intellectual property rights on the work do not infringe upon the rights of third parties, including other intellectual property rights, and indemnifies client against all claims in this regard. Contractor shall compensate to client all damages that are the consequence of any infringement.

Article 9: Confidentiality

- 9.1. All models, design data, drawings and other documents etc. provided by client to contractor, as well as knowhow that contractor has obtained via client, are confidential and shall not be used by contractor for any other purpose than for the fulfilment of its obligations ensuing from the agreement with client.
- 9.2. The data stated in article 9.1 will not be made public or reproduced, by contractor except with written permission for this from client. If the contractor must provide the secret information provided to it to its employees for the execution of the agreement, contractor shall undertake to ensure that its employees shall be included in the confidentiality obligation of this agreement before they take cognizance of the information made available by client.

- 9.3. If contractor must make the information referred to in article 9.1 available to one or more third parties for the execution of the agreement, it shall also impose a confidentiality requirement as referred to in this article on these third parties.
- 9.4. Contractor shall owe to client a fine payable immediately of 10% of the total sales over the past 12 months, with a minimum of €25,000, if it violates one or more of the aforementioned obligations.
- 9.5. The fine stated in article 9.4 can be claimed in addition to replacement and additional compensation of damages on the basis of the law. Client has the right to deduct this fine and/or compensation of damages from amounts owing to contractor.

Article 10: Non-competition

- 10.1. Contractor shall refrain from making quotations and/or offers to the principal that are related with the work, either directly or through the intervention of third parties, except with prior written permission of client.

Article 11: Aids

- 11.1. All aids such as drawings, models, dies and tools that are made available by client to contractor for the performance of an agreement, or that contractor has specially made or had made as part of the agreement with client, under all circumstances remain or become property of client, regardless of whether payment for this has been made.
- 11.2. All aids and all copies made of them must be made available to client or be returned to client upon first request.
- 11.3. As long as contractor is in possession of the aids, contractor must provide thee aids with an indelible identifying mark that indicates that it is property of client. Contractor shall inform third parties that wish to make use of these aids of the client's property rights.
- 11.4. Without prejudice to the provisions of article 9 of these terms and conditions, contractor shall only use the aids referred to in this article for the performance of works for the client and not show them to third parties unless client has given explicit written permission for this. Contractor shall bear the risk of loss or damage and shall undertake to insure this risk at its own expense.

Article 12: Liability

- 12.1. Contractor is liable for all direct and indirect damage caused by a shortcoming or unlawful act by contractor, its subordinates or its agents. This includes all damages caused by the presence and/or use of items that contractor has brought in for the performance of the agreement.
- 12.2. Contractor shall indemnify the client in full against claims from third parties for compensation of damages as referred to in the first paragraph.

Article 13: Insurance

- 13.1. If requested, contractor shall demonstrate to the satisfaction of client that it has provided adequate insurance at its own expense that covers any damage suffered by client as a result of the actions and negligence of the contractor and/or third parties it has hired. Contractor shall undertake to pay the premiums on time and in full. Contractor shall be required to show the policy to this effect and proofs of payment upon first request of client.

Article 14: Warranty

- 14.1. Unless agreed otherwise, contractor shall warrant for a period of 12 months after commissioning/installation, that the items delivered and the work are of good quality, free of construction, material and manufacturing defects, and that they satisfy the agreement. In the event that the items delivered or the work have not been put into use within 6 months after delivery, the warranty shall apply for a period of 18 months after delivery.
- 14.2. Contractor shall repair all defects that the items and/or the work may show during the warranty period, immediately and in consultation with the client, or, if the client chooses, replace the defective items or (parts of) the work.
- 14.3. Contractor shall bear all the costs associated with the repair of the defect or the replacement of the items and/or the work. This also includes the costs of the commissioning of items and/or the work after the aforementioned repair or replacement. If the items and/or the work are part of a larger object, the costs of commissioning of that larger object shall also be at the contractor's expense.

- 14.4. Contractor shall guarantee that the delivery will meet all the relevant legal stipulations among other things regarding quality, environment, health and safety.
- 14.5. In the event of epidemic faults (faults that appear in more than 10% of the products delivered and that are the same or have the same cause), contractor shall undertake upon first request of client to agree to a consultation to reach a sustainable solution to these problems. Contractor shall do everything in its power to prevent further problems.
- 14.6. If contractor remains in default of its warranty obligation as stated in this article, client has the right to perform the warranty work itself or have this done by third parties at contractor's expense and risk. Client may deduct the costs incurred for this from amounts owing to contractor.

Article 15: Payment

- 15.1. Payment will be made within the agreed payment period as much as possible, unless an objection is made by client after receipt of the items - including the associated documents - about the quantity and/or quality of the items delivered.
- 15.2. Client shall be entitled at all times to offset any amounts the parties may have to claim from each other.
- 15.3. Client reserves the right to pay the social insurance premiums and wage deductions owing by contractor in relation to the work, for which it is liable pursuant to the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act, to contractor by deposit to its withholding tax account or into the deposit held for contractor by the Tax Collector's Office.
- 15.4. Without prejudice to the provisions of the previous paragraph, client is always entitled to withhold the aforementioned amounts of social insurance premiums and wage deduction from the contract or subcontract amount and pay them to directly to the Tax Collector's Office on the contractor's behalf.

Article 16: Change to the services

- 16.1. Client has the right to request contractor to change the nature and scope of the services to be delivered. Client shall specify the desired changes in a way that can be ascertained by contractor.
- 16.2. If, in contractor's opinion, a change has consequences for the agreed price and/or time of delivery, prior to implementing the change it shall undertake to inform client of this in writing as quickly as possible, but no later than within eight (8) work days after notice of the requested charge. Client has the right to dissolve the order if the price and delivery time set by contractor are not acceptable for client. Client will not make use of the right to dissolve the order on unreasonable grounds. In case of dissolution, client shall compensate to contractor all reasonable direct costs that contractor has had to incur until that moment in direct connection with the dissolution of the order, of which and insofar as the results cannot be used elsewhere.
- 16.3. Contractor is only authorised to make or perform changes to the execution of the order after prior written permission of client. Change requests must be submitted by contractor to client in writing.

Article 17: dissolution/termination of the agreement

- 17.1. Client has the right to dissolve the agreement with immediate effect and without prior notice of default if:
 - a. a delivery deadline is exceeded;
 - b. contractor is in default with regard to a shortcoming in the fulfilment of its obligations pursuant to an agreement entered into with client;
 - c. an application for bankruptcy or the suspension of payments of contractor has been made;
 - d. attachment is imposed on items or claims of contractor;
 - e. a permit necessary for an agreement entered into with client is withdrawn.
 - f. Contractor transfers its company in full or in part to a third party or the ownership and/or control of/over the undertaking otherwise comes to be held in full or in part by a third party.
 - g. contractor (company) is dissolved or liquidated;
 - h. contractor (natural person) makes a request to be admitted to a legal debt restructuring plan, is placed under administration, or dies.
- 17.2. Dissolution on any of the grounds stated in paragraph 1 in no case entitles the contractor to compensation of any damages suffered or to be suffered by it.

17.3. If any of the situations listed in article 17.1 occurs, all claims by client against contractor, on whatever grounds, shall be claimable immediately.

Article 18: Applicable law and choice of jurisdiction

18.1. Dutch law shall apply.

18.2. The Vienna Convention (C.I.S.G.) is not applicable, nor is any other international regulation of which exclusion is permissible.

18.3. Only the Dutch civil court that has jurisdiction in the place of establishment of client may take cognisance of disputes, unless this is in conflict with peremptory law. Client may deviate from this rule of jurisdiction and apply the statutory rules governing jurisdiction.

18.4. Parties may agree to another form of dispute resolution such as arbitration or mediation.

CONTRACTING AND SUBCONTRACTING/SERVICES

Article 19: Assignment/Pledge prohibition

19.1. Contractor shall be prohibited from assigning, pledging or otherwise transferring ownership under any title whatsoever any claims against client ensuing from this agreement without permission of client.

Article 20: Contractor obligations

20.1. The contractor must:

- a. have valid proof of registration with the relevant Employee Insurance Agency (UWV), insofar as this agency issues such proof. Contractor must show this proof of registration to client upon request;
- b. provide to client a recent (not older than three months) extract from the register of companies of the Chamber of Commerce upon request;
- c. submit to client a statement of all the employees to be deployed on the work as well as (one-time, prior to this person starting their work) a copy of valid proof of identification of each employee and provide pay statements upon request;
- d. submit a man-days register to client that states the name, address, postcode, place of residence, citizen service number, date of birth and number of hours worked per date per employee of contractor;
- e. strictly fulfil all obligations toward employees employed by contractor;
- f. promptly pay all legal requirements to transfer social insurance premiums as well as wage taxes related to the work assigned to it and further to strictly adhere to the applicable collective bargaining agreement;
- g. periodically automatically issue a declaration regarding its transfer of wage taxes and premiums as referred to in the framework of the guidelines set under the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act;
- h. as requested, draw up weekly reports according to a template approved by client and present these completed and signed weekly reports to client for approval each week;
- i. if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act is applicable, set up its administration such that the following documents or data can be found immediately or virtually immediately:
 - the agreement or the content thereof on the basis of which the contractor has performed the work for the client;
 - the data regarding the fulfilment of that agreement including a registration of the people engaged and the days/hours during which those people performed work;
 - the payments made in relation with the aforementioned agreement;
- j. as requested, provide at no charge to client all information for its administration and/or for that of its principal;
- k. if Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act applies, be in possession of the original withholding tax account agreement and show this on request of client, unless parties agree that client will deposit directly to the deposit of the Tax Collector's Office on the basis of article 15.4.

20.2. In the event that contractor has not (yet) met its obligations under paragraph 1, client will first be required to make payment after it has received the missing information and has processed its administration and/or contractor has met any other obligations.

Article 21: Organisation of the work

- 21.1. The contractor shall be obliged to exclusively observe the client's directions and instructions.
- 21.2. Client shall have the authority to deny employees of contractor access to the site or to remove them or have them removed for example due to unfitness, disorderly conduct, misconduct, etc., without further compensation of any damages that contractor may suffer as a result of this.
- 21.3. The work and break times at the work site and the rest days or public holidays, vacations or other days off recognised generally or at the location of the work site, or prescribed by public authorities or pursuant to any collective bargaining agreement shall also apply for contractor and its staff members who perform work on site. Any damages ensuing from this for the contractor cannot be recouped from client. The latter also applies if any of the services of contractor cannot be used due to strike or for other cause at client or at third parties.
- 21.4. Unless otherwise agreed upon, as of starting the work to the time of delivery, contractor must ensure that a fixed foreman is present on site, with whom both organisational and technical agreements can be made. Their name must be known to people or institutions indicated by client.
- 21.5. Contractor must provide its employees with the correct personal protective equipment and oversee its (correct) use. All costs ensuing from this shall be at contractor's expense.
- 21.6. All the necessary insurance policies as well as the excess of any CAR policy taken out with respect to the work site shall be at contractor's expense.
- 21.7. Contractor must ensure there is such staffing that the execution of the work is adjusted entirely according to the schedule set by the client and must be such that the other work does not stagnate. In the case that client changes the schedule/progress, contractor shall undertake to adapt accordingly. Changes to the staffing are only permitted with permission of the client.
- 21.8. As is stipulated by the Motor Insurance Liability Act (WAM), contractor shall undertake to ensure that the work equipment it brings in that is subject to WAM is insured. With regard to the work equipment subject to WAM rented by contractor, contractor must ensure that it meets the aforementioned insurance requirement. Furthermore, contractor must also have taken out adequate insurance for the working risks of the work equipment subject to WAM that it brings in.
- 21.9. With regard to cables, pipes and other above and below-ground property of third parties, contractor shall always undertake to arrange the determination of their location. Contractor must notify client immediately of any damage.
- 21.10. Necessary equipment such as scaffolding, elevating work platforms, lifting equipment and small equipment including hand tools, measurement equipment, rolling scaffolding, ladders and steps, etc., shall be provided by contractor and included in the total price.
- 21.11. If work needs to be done on or to parts of the work that are already completed, such as plastered walls, tiling, paintwork etc., contractor shall take protective measures to prevent damage and/or soiling. Damage and/or soiling found after or during the work shall be regarded as having been caused by contractor.
- 21.12. After ending the work, contractor must deliver the work swept clean and leave the construction site clean.

Article 22: Invoicing

- 22.1. Notwithstanding the provisions of article 18.2, the client will only approve an invoice for payment once the work, or the part to which an instalment payment applies, has been satisfactorily delivered by contractor and provided the invoice meets the applicable formal requirements as stated in article 20.2.
- 22.2. The invoice must meet the legal requirements as stated in the Turnover Tax Act. The contractor must in any case clearly state the following data:
 - the date of issue;
 - a consecutive number, with one or more series, with which the invoice can be identified unambiguously;
 - the name and address of client;
 - the name and address of contractor;
 - the number of the agreement;
 - the work and the place(s) of execution to which the invoice applies;
 - the time period and the services done to which the invoice applies;
 - the number of man-hours worked, the amount of the wage costs and (separately) the percentage of wage deductions from the wage amount, if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act applies;
 - a statement of whether or not the transfer arrangement with regard to the turnover tax is applicable and in the latter case, the amount of the turnover tax;
 - the VAT identification number of the undertaking that performed the delivery or service;

- the VAT identification number of the client if the VAT payment is transferred to client;
- the invoice amounts, split up for every rate and then divided into unit prices and any discounts applied.

Article 23: Statutes and regulations

- 23.1. Contractor must adhere to all the applicable legislation and regulations, rules, terms and stipulations, as well as all rules and conditions that apply to this work pursuant to the agreement entered into by client with its contractor.
- 23.2. Contractor shall arrange at its own expense any necessary permits and safety measures to be taken in connection with the delivery to be made and the performance of the work it takes on.

Article 24: Execution by third parties

- 24.1. Without prior written permission of client, contractor may not transfer or outsource the order or any part thereof, or the performance thereof, to a third party.
- 24.2. When the contractor entrusts the work, or a part thereof, to a third party, it must draw up a written agreement for this immediately. The conditions of this agreement must correspond with the agreement entered into between the client and contractor for the work, where contractor and the third party *mutatis mutandis* take on the (legal) position of the client and contractor respectively.
- 24.3. Transfer/outsourcing leaves intact the obligations that contractor has toward client pursuant to the agreement.
- 24.4. Without prejudice to the provisions of articles 22.1, 22.2 and 22.3, contractor shall not be authorised to make use of the workers made available except with prior written permission of client. In case of outsourcing the work or hiring temporary employees as referred to above, contractor shall undertake to adhere to the administrative rules of the *Uitvoeringsregeling inleners- keten- en opdrachtgeversaansprakelijkheid 2004* [Implementation regulation for temp workers, supply chain and client liability 2004].