



These General Conditions of Purchase and (Sub)Contracting of Houcon, hereafter called the "Conditions", are deposited with the Chamber of Commerce in Rotterdam.

1. General

- 1.1 The principal is the natural or legal person who applies these Conditions. The contracting party shall be called the contractor. In these Conditions work also means the providing of services and/or the delivery of goods.
- 1.2 Articles 1 through 18 of these Conditions apply to all offers made to the principal and all contracts made with the principal, including those for the delivery of goods. If the offers or the contracts also or exclusively encompass (sub)contracting and/or the provision of services, then in addition articles 19 through 25 of these Conditions apply.
- 1.3 Any deviations from these Conditions only apply if the principal has confirmed them to the contractor in writing.
- 1.4 Applicability of the general conditions applied by the contractor is explicitly rejected.
- 1.5 If in a given case the principal does not enforce a provision of these Conditions, this does not mean that the principal has thereby waived his right to enforce the provisions of these Conditions in other cases.

2. Costs of offers

- 2.1 Any costs connected with the making of offers or price quotes including the costs of advice, illustration work and the like made by or on behalf of the contract shall not be reimbursed by the principal.

3. Delivery time and penalty

- 3.1 Time is of the essence with regard to the agreed delivery time. The contractor shall be legally in default by the exceeding of the delivery time. As soon as the contractor knows or should know that the contract shall not be performed, shall not be performed in time or shall not be performed properly, he shall immediately inform the principal thereof.
- 3.2 The contractor is liable for all loss suffered by the principal as a result of late delivery as referred to in article 3.1.
- 3.3 For every week of delay in delivery the principal reserves the right to impose an immediately due penalty on the contractor of 2.5% of the total order amount with a minimum of € 250.00 up to a maximum of 10% of the total order amount.
- 3.4 The penalty referred to in article 3.3 can be claimed in addition to compensation on the basis of the law. The principal has the right to set off this penalty and/or compensation against amounts owed to the contractor.

4. Prices

- 4.1 The prices set out in the offer are based on delivery free of charge at the agreed place, for deliveries within the European Union "DAP" and for deliveries outside of the European Union "DDP", in accordance with Incoterms 2010. All prices are fixed, exclusive of VAT and including proper packing.
- 4.2 Price increases after the contract is made are and remain at the contractor's expense, regardless of the time which has passed between the date the contract was made and the performance thereof.

5. Transfer of risk

- 5.1 Delivery shall be effected free of charge at the agreed place, for deliveries within the European Union "DAP" and for deliveries outside of the European Union "DDP", in accordance with Incoterms 2010.
- 5.2 If the prices are agreed 'ex factory' and the contractor sees to the transport, the risk of loading and transport is at the contractor's expense.



5.3 If the goods are picked up by or on behalf of the principal, the contractor must provide assistance with the loading without charging costs therefore. In such case the contractor bears the risk of loading.

6. Production planning, inspection and testing

6.1 Within two weeks after the signing of the assignment confirmation the customer shall prepare a detailed production planning and furnish it to the principal. This production planning must in any event include the expected delivery date.

6.2 Every week on Friday before 12.00 hours the contractor shall send the principal a progress report by e-mail based on the above-mentioned production planning.

6.3 The contractor must immediately inform the principal of any delay in writing. Every delay longer than two weeks compared to the production planning must have been made up within two weeks, whereby in the event of failure to do so the principal has the right to terminate the contract.

6.4 The principal and/or his principal and/or the management of the work, at all times have the right to inspect or test the ordered or delivered goods/the work (in progress). In such case the contractor shall see to such facilities as can be reasonably demanded therefore.

6.5 The costs of the inspection referred to in article 6.4 are at the contractor's expense, in the event these goods/the work are/is rejected by the principal and/or his principal and/or the management of the work. Inspection or approval does not release the contractor from any guarantee or liability, as these ensue from the contract or the law.

7. Rejection

7.1 If the goods delivered by the contractor/the work do not meet the requirements described in the assignment and/or specification, the principal has the right to reject these. Receipt of the goods or payment of the goods or the work does not entail acceptance thereof. Until the time of possible approval the goods/the work remain at the contractor's expense and risk.

7.2 If the principal rejects the delivered goods or the work, the contractor is obliged to come up with a plan of approach within five working days. In addition, within a time period stipulated by the principal, the contractor must:

- a) see to repair free of charge; or
- b) see to replacement of the goods free of charge; or
- c) carry out the work in accordance with the contract.

7.3 If the contractor does not perform his obligation set out in article 7.2, does not perform such within the stipulated time period or does not perform such to the satisfaction of the principal, the principal is entitled at the contractor's expense to carry out the repair himself or have a third party carry out the repair. The principal has the right to set off the costs made against amounts owed to the contractor.

8. Intellectual property rights

8.1 The contractor guarantees that the goods he is to deliver to the principal or the work he is to carry out for the principal does/do not infringe intellectual property rights of third parties, and indemnifies the principal against all claims which are made on him under that heading. The contractor shall compensate the principal for all loss which is the result of any infringement.

9. Confidentiality

9.1 All models, design information, drawings and other documents, etc. which the principal furnishes to the contractor, and know-how which has come to the contractor's knowledge via the principal, are confidential and the contractor shall not use them for any other purpose than to perform his obligations ensuing from the contract with the principal.

9.2 The contractor shall not disclose or reproduce the details set out in article 9.1, unless he has first obtained the principal's written consent. In addition, the contractor shall also impose the duty of confidentiality set out in this article on his personnel.

- 9.3 If the contractor must disclose the information referred to in article 9.1 to a third party or parties for the performance of the contract, he undertakes to impose a duty of confidentiality as referred to in this article on such third party or parties.
- 9.4 The contractor owes the principal an immediately due penalty of 10% of the total order amount if he breaches one or more of the above obligations.
- 9.5 The penalty referred to in article 9.4 can be claimed in addition to compensation on the basis of the law. The principal has the right to set off this penalty and/or compensation against money he owes the contractor.

10. Non-competition

- 10.1 The contractor shall fully refrain from, directly or through intervention of third parties, making price specifications and/or offers to the principal's principal, including those for expansions and/or changes regarding the work for which the principal is in negotiation with the principal's principal.

11. Auxiliary materials

- 11.1 All auxiliary materials, such as drawings, models, moulds and tools which the principal has made available to the contractor for the performance of a contract or which the contractor has made or has had made especially in the framework of the contract with the principal, remain or shall under all circumstances become the property of the principal, regardless of whether payment has been made therefore or not.
- 11.2 All auxiliary materials and all copies made thereof must be made available or returned to the principal upon first request.
- 11.3 As long as the contractor has the auxiliary materials in his possession, they shall be foreseen with an indelible reference which indicates that they are the principal's property. The contractor shall inform third parties who wish to seek recovery from these auxiliary materials of the principal's ownership rights.
- 11.4 Without prejudice to the provisions of article 9 of these conditions, the contractor shall only use the auxiliary materials referred to in this article for effecting of deliveries and work on behalf of the principal and shall not show them to third parties, unless the principal has given explicit written consent therefore. The contractor bears the risk of loss or damage and is bound to insure this risk at his own expense.

12. Liability and indemnification

- 12.1 The contractor is liable for all direct and indirect loss, arising due to default or wrongful act of the contractor, the contractor's subordinates or agents, regardless of any co-culpability on the part of the principal or a third party. This includes all loss arising due to the presence and the use of goods which the contractor has used in the performance of the contract.
- 12.2 The contractor is obliged to indemnify the principal and third parties on the part of the principal (including his personnel) against all claims of third parties with regard to loss in relation to or connected with the performance of the contract.
- 12.3 Insofar as the principal is not able to invoke article 12.2, the contractor is at all times and in all cases obliged to indemnify third parties against the claims mentioned in article 12.2 if these claims of third parties exceed the total amount of € 100,000 per event or series of events with the same cause.
- 12.4 This obligation of the contractor as set out above under 12.2 does not apply insofar as this loss has arisen from an action or omission of the board of directors or the company management of the principal, which loss was caused either intentionally or recklessly and with the knowledge that said loss would probably ensue therefrom.
- 12.5 Loss also encompasses loss caused by death or injury, damage to property of third parties, every form of financial loss including trading loss, 'demurrage' and other indirect (consequential) loss which might arise on the part of the principal or on the part of third parties. This loss encompasses judicial and extrajudicial costs which the principal has had to make to defend itself against claims of third parties.
- 12.6 The contractor waives vis-à-vis the principal and third parties on his part any claim for compensation or right of recourse that he has on the principal or third parties on the part of the principal.

- 12.7 If a penalty, levy or assessment, fine or any other sanction which is financially disadvantageous for the principal is imposed on the principal by a public authority in connection with an action or omission of the contractor, the contractor is obliged to indemnify or compensate the principal in this respect.
- 12.8 In the event of default the contractor is obliged on the principal's first request to give a bank guarantee in accordance with the Rotterdam Guarantee Form, which bank guarantee is to be issued by a bank based in the Netherlands with a good creditworthiness status, to be evaluated by the principal, subject to a penalty in the amount of 100% of the total order amount with a minimum of € 25,000, without prejudice to the principal's right to claim a penalty.

13. Insurance

- 13.1 On the principal's request the contractor shall demonstrate that he, at his expense, has taken out sufficient insurance which covers the loss which the principal suffers as a result of actions and omissions of the contractor and/or third parties which have been engaged.
- 13.2 If the contractor executes his activities on premises of the principal in whole or in part, the contractor shall himself see to the usual and statutorily prescribed insurance to cover his own liability and that of the persons (and their material) whom he engages in his activities (including personnel).
- 13.3 The insurance cover which the contractor is obliged to have pursuant to this clause with regard to the execution of activities which take place on the principal's premises in whole or in part and the insurance which the contractor at his own election takes out in addition thereto in connection with the activities, must stipulate that the principal and his personnel are co-insured. The insurance conditions shall stipulate that the insurers waive their right to seek recovery from the principal and his personnel.
- 13.4 The contractors guarantees that his subcontractors or third parties which he engages in his activities shall possess insurance with corresponding conditions and cover such as those agreed with him under these Conditions.

14. Guarantee

- 14.1 Unless otherwise agreed, the contractor guarantees for a period of 2 years after taking into use, that the delivered/completed goods and the work are of good quality, free of construction, material and manufacturing faults and that they correspond with the contract. In the event the delivered/completed goods/work have not been taken into use within 6 months after delivery/completion, the guarantee is effective for a period of 18 months for welding work and 24 months for other materials after delivery/completion.
- 14.2 The contractor shall immediately and in consultation with the principal rectify all defects which arise in the goods/the work during the guarantee period or replace the faulty goods or (parts of) the work.
- 14.3 All costs connected with the rectification of the defect, or the replacement of the goods/the work and taking the goods/the work back into use, or – if this belongs to a bigger object – the recommissioning of such bigger object are at the contractor's expense.
- 14.4 If the contractor defaults on his guarantee obligation laid down in this article, the principal has the right to carry out the necessary work or have third parties carry out the necessary work at the contractor's expense and risk. The principal has the right to set off the costs made against amounts owed to the contractor.

15. Payment

- 15.1 Payment shall be made as much as possible within the agreed payment term, unless the principal has lodged a complaint regarding the quantity and/or quality of the goods delivered after receipt of the goods, which includes the related documents.
- 15.2 In the event of advance payment or payment in instalments the principal has the right to demand of the contractor that he give security for performance which security the principal deems adequate. If the contractor does not comply with this demand within the stipulated time period, he shall be in default. In such case the principal has the right to cancel the contract and recover his loss from the contractor.
- 15.3 The principal is at all times entitled to set off the amounts the parties have to claim on each other.

- 15.4 The principal reserves the right to pay the contractor the amount for the social security premiums and wage taxes owed by the contractor with regard to the work, for which he is severally liable pursuant to the Dutch Sequential Liability Act (*Wet Ketenaansprakelijkheid*), by deposit on his blocked account as referred to in the Sequential Liability Act.
- 15.5 Without prejudice to the provisions of the preceding paragraph the principal is at all times entitled to withhold the above-mentioned amounts in social security premiums and wage taxes from the (sub)contract price and pay it on behalf of the contractor directly to the related benefits agency (Uitvoeringsinstituut Werknemersverzekeringen; UWV) and/or receiver of direct taxes.

16. Termination of the contract

- 16.1 The principal can terminate the contract with the contractor with immediate effect if (this list is not exhaustive):
- a) the contractor is bankrupt or is declared bankrupt;
 - b) the contractor applies for a moratorium on payment, or the contractor is granted a (provisional or definite) moratorium on payment;
 - c) the contractor, if he is a natural person, passes away or is placed under guardianship, or the assets of the contractor or a part thereof are made subject to administration;
 - d) the contractor, if he is a legal person, is dissolved or the contractor goes into liquidation or a decision is made with regard to the liquidation of the contractor;
 - e) the contractor merges with a third party or is taken over by a third party;
 - f) the legal form of the contractor is altered, or
 - g) there is an essential change in the activities of the contractor.

17. Language

- 17.1 These Conditions have been drawn up in Dutch and translated into English. In disputes relating to the interpretation of these Conditions the Dutch text shall prevail.

18. Applicable law and choice of forum

- 18.1 Dutch law applies.
- 18.2 The Vienna Sales Convention (C.I.S.G.) does not apply, nor does any other international regulation whose application can be excluded.
- 18.3 All disputes ensuing from or connected with these Conditions or the contract(s) between the principal and the contractor (i) if the contractor is based in a member state of the European Union shall exclusively be adjudicated by the District Court of Rotterdam and (ii) if the contractor is based outside of the European Union shall exclusively be adjudicated by means of Tamara arbitration in Rotterdam.

(SUB)CONTRACTING/SERVICES

19. Changes, work which is more or less than contractually agreed

- 19.1 The principal is entitled to demand changes in the contract even if these entail more or less work than was contractually agreed. Payment is only owed for additional work or altered work if a written instruction has been given for such. The contractor is obliged to immediately inform the principal of the extra costs which are connected with additional work or altered work.

20. Prohibition of assignment/pledge

- 20.1 The contractor is prohibited from assigning, pledging or transferring ownership in, under any title whatsoever, the amount in social security premiums and wage taxed included in the contract price, for which the principal is liable under the Dutch Sequential Liability Act.

21. Obligations of the contractor

- 21.1 The contractor is obliged to comply with the following provisions with regard to the principal:
- a) the possession of, and on the request of the principal presentation of valid proof of registration with the relevant benefits agency (*Uitvoeringsinstituut Werknemersverzekeringen; UWV*), insofar as the institute provides such;
 - b) presentation of a recent (no older than three months) excerpt from the Trade Register of the Chamber of Commerce;
 - c) to present to the principal a statement of all employees put to work and of every employee once only (before starting with his work) a copy of valid ID and if so requested wage slips;
 - d) to hand over a register of days worked, which sets out the name, address, post code, city, social security number ("sofi number"), date of birth and number of hours worked per date for each employee of the contractor;
 - e) to strictly comply with all obligations with regard to the employees put to work by the contractor;
 - f) to fully comply with all statutory obligations for the payment of social security premiums and wage taxes which are connected with the work with which he has been charged, and furthermore to fully comply with the applicable collective labour agreement;
 - g) to periodically automatically furnish a statement relating to his payment of wage taxes and social security premiums as referred to in the guideline(s) established in the framework of the Dutch Sequential Liability Act;
 - h) if so desired the contractor shall prepare weekly reports in accordance with a model approved by the principal and every week shall present to the principal the weekly reports completed and signed by the contractor for agreement;
 - i) if sequential liability applies, the contractor is obliged to set up his administration in such way that the following documents or details can be found immediately or virtually immediately:
 - the contract or the content thereof on the basis of which the contractor executed the activities on behalf of the principal;
 - the details relating to the performance of the contract including a registration of the persons who have been put to work and of the days/hours during which said persons carried out work;
 - the payments which have been made in connection with said contract.
 - j) to furnish the principal upon request with all information for his administration or for that of his principal free of charge;
 - k) if sequential liability applies, the contractor is obliged to possess an original Guarantee account contract and present it upon the principal's request.
- 21.2 In the event the contractor has not (yet) performed his obligations under paragraph 1 the principal shall not be bound to make payment until he has received the missing information and processed this administratively and/or the contractor has performed his other obligations.

22. Organisation of the work

- a. The contractor is obliged to only follow the orders and instructions of the principal.
- b. The principal has the right to deny employees of the contractor access to the work or to have them removed, e.g. due to unsuitability, breach of the peace, misconduct, etc., without further compensation of the costs.
- c. The work and rest times at the work and the general rest periods or public holidays, vacation or other free days or those recognised at the location of the work, or those prescribed by the government or pursuant to the collective labour agreement also apply to the contractor and his personnel who carry out activities at the work. Any loss ensuing therefrom for the contractor cannot be recovered from the principal. The latter also applies if due to a strike or other demonstrable causes on the part of the principal or third parties no use can be made of the contractor's services;
- d. Unless otherwise agreed the contractor must ensure from the start of the work up to and including the completion that a fixed foreman is present at the work, with whom both organisational and technical agreements can be made. His name must be known to the persons or institutions designated by the principal.
- e. The contractor must provide his employees with the correct personal protection equipment and supervise the use thereof. All costs ensuing therefrom or connected therewith are at the contractor's expense.
- f. All necessary insurance and the excess of a CAR policy taken out for the work are at the contractor's expense.
- g. The contractor must ensure there is such a workforce that the execution of the work is fully adapted to the planning determined by the principal and must be such that other work does not stagnate. In the event the principal changes the planning/progress the contractor is bound to adapt thereto. Changes in

- the workforce are only permitted after the principal has given consent.
- h. As prescribed by the Dutch Motor Insurance Liability Act (WAM), the contractor is obliged to ensure that the work material brought in by him which is governed by the WAM is insured. With regard to the work material governed by the WAM which is rented by the contractor, the contractor must ascertain that it satisfies the above-mentioned insurance conditions.
 - i. With regard to cables, pipes and other above- and underground property of third parties the contractor is at all times obliged to see to the locating of such above- and underground property. The contractor must immediately inform the principal of any loss.
 - j. Necessary material such as scaffolds, aerial platforms, hoisting materials and small equipment including hand tools, measuring equipment, mobile scaffolds, ladders, etc., shall be furnished by the contractor and are included in the total price.
 - k. If work has to be carried out on or to parts of the work already completed, such as stuccoed walls, tile work, painting work, etc. the contractor has to take protective measures to prevent damage and/or contamination and any damage and/or contamination which is nevertheless found shall be deemed to have been caused in contravention of the aforementioned obligation.
 - l. After termination of the work the contractor must deliver the work swept clean and leave the construction site in clean condition.

23. Invoicing

- 23.1 The principal shall only approve an invoice for payment when the work or the part thereof to which a part payment relates has been satisfactorily completed by the contractor.
- 23.2 The invoice must meet the statutory requirements as laid down in the Dutch Turnover Act. The contractor must in any event clearly set out the following details in an orderly manner:
 - a) the date of issue;
 - b) a sequential number, with one or more series, so that the invoice has a unique reference;
 - c) the principal's name and address;
 - d) the contractor's name and address;
 - e) the contract number;
 - f) the work and the execution location(s) to which the invoice relates;
 - g) the time period and the executed activities to which the invoice relates;
 - h) the number of man-hours worked, the scope of the wage costs and (separately) the percentage of wage levies on the wage amount, if sequential liability applies;
 - i) a statement as to whether or not the VAT transfer scheme applies and in the latter case the VAT amount;
 - j) specification of the VAT identification number of the contractor who effected the delivery or provided the service;
 - k) specification of the VAT identification number of the principal if the responsibility of paying VAT has been transferred to the principal;
 - l) specification of invoice amounts, divided for each rate and then sub-divided by unit rate and any discounts which have been applied.

24. Statutes and regulations

- 24.1 The contractor is deemed to be familiar with all statutory and other regulations, conditions and provisions, including the Building Decree and the Building Materials Decree, which the principal must observe and comply with, pursuant to the contracting agreement he has made, of which agreement the work described in this contract forms part.
- 24.2 The contractor undertakes to comply with and observe all regulations, conditions and provisions including the building site regulations, the Dutch Occupational Health and Safety Act, safety legislation, the Dutch Environmental Management Act, insofar as it relates to the delivery to be effected and the work to be executed by him, including those relating to the safety and working conditions and those relating to hinder and/or nuisance to third parties. The contractor shall himself see to any permits which may be required and any safety measures which must be taken in connection with the delivery to be effected and the execution of the work taken on by him.

25. Execution by third parties

- 25.1 Without the principal's prior written consent, the contractor shall not transfer or outsource the assignment, or any part thereof, or the execution thereof to a third party.
- 25.2 If the contractor instructs the work, or a part thereof, to a third party after having obtained consent, he must immediately draw up a written contract therefore, of which the Conditions of this contract form part. The instructing contractor takes the legal position of the principal in this respect and the third party takes the position of that of the contractor.
- 25.3 Transfer/outsourcing is without prejudice to the obligations which the contractor has to the principal under the heading of the contract.
- 25.4 Without prejudice to the provisions of articles 25.1, 25.2 and 25.3 the contractor is not authorised to make use of the labour made available, other than with the prior written consent of the principal. In the event of outsourcing of the work or the hiring of temporary labour as referred to above, the contractor is obliged to comply with the administrative regulations from the Sequential Liability and Principal Liability of Temporary Employers Implementation Decree 2004.