



PURCHASE CONDITIONS

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PURCHASE CONDITIONS NIJBURG PRODUCTS BV

ARTICLE 1. Definitions

In these purchase conditions, the terms and expressions used below are defined as follows:

- **Client:** Nijburg Products BV, user of these purchase conditions.
- **Supplier:** the party with which the client contracts.
- **Contract:** the arrangement set out in writing between the client and supplier relating to the delivery of goods.
- **Delivery:** the putting of one or more goods into the possession of the client or bringing of one or more goods under client's control and any installation/assembly of these goods.
- **Goods:** corporeal objects to be delivered.
- **Parties:** client and supplier.

ARTICLE 2. Applicability

- A.** In the event of conflict between these purchase conditions and special obligations agreed to, the latter will prevail.
- B.** These purchase conditions apply to all enquiries, offers and orders as regards the delivery of goods by supplier to client, hereby specifically rejecting the general conditions of supplier.

ARTICLE 3. Changes

- A.** Client is authorized at all times to change the size and/or properties of the goods to be delivered in consultation with supplier. Changes will be agreed in writing.
- B.** If in the opinion of supplier, a change will have consequences for the agreed fixed price and/or the date of delivery, it is obliged to inform the client hereof in writing as soon as possible before carrying out the change, at the latest within 4 working days after notification of the required change. If these consequences for the price and/or delivery period in the opinion of client are unreasonable, the parties will hold consultations.

ARTICLE 4. Transfer of obligations

- A.** Supplier may only transfer an obligation arising from the contract to a third party with client's prior, written permission. This permission can be made subject to reasonable conditions.
- B.** In cases of transfer to a third party of a (part of) the obligations arising for supplier from the contract, it is obliged to notify client what securities have been provided for the payment of BTW (Dutch VAT), income tax and national insurance contributions that are prescribed by law for employers.

ARTICLE 5: Price and price review

- A.** The prices are exclusive of BTW and include all costs in connection with the compliance of supplier's obligations.
- B.** The prices are fixed, unless the contract mentions the circumstances that may lead to price adjustments as well as sets out the way in which the adjustment takes place.

ARTICLE 6. Invoicing and payment

- A.** Payment of the invoice, inclusive of BTW, shall be made within 60 days after receipt of the invoice and approval of the goods and any installation/assembly of these goods by client.
- B.** Client is authorized to suspend payment if it discovers a defect in the goods and any installation/assembly thereof.
- C.** Client is entitled to deduct amounts that supplier owes to client from the invoice amount.
- D.** Payment by client does not constitute any waiver of rights.

ARTICLE 7. Date of delivery

- A.** The agreed date of delivery is of fundamental meaning. In case of overdue delivery, supplier is in default without any further notice of default being required.
- B.** Supplier has to notify client without delay of the imminent possibility of exceeding the delivery period. This does not affect any possible consequence of this exceeding under the contract or statutory provisions.

ARTICLE 8. Delivery

- A.** Delivery will take place at the agreed place and agreed time, in accordance with the currently applicable Incoterm DDP (Delivered Duty Paid). Varying conditions must be agreed with client in writing at all times.
- B.** Client is entitled to postpone the delivery. In this case, supplier will store the goods in appropriate packaging, separately and recognizably, and preserve, secure and insure them.

ARTICLE 9. Failure

- A.** In case of failure attributable to supplier, supplier is in default without any further notice of default being required.
- B.** Without prejudice to the right to claim compensation and any other legal rights arising from an attributable failure, client is entitled to collect an immediate fine of 10 % per day of the amount to be paid by client in connection with the delivery as from the day of being in default, with a maximum of 50%.
- C.** The statutory interest on amounts that client has paid in advance will be set off against the invoices to be paid on the period of default.
- D.** In case of a nonattributable failure, the obligations of both parties are suspended for 5 working days.
- E.** Parties will only be able to rely on nonattributable failure towards each other if the party in question informs the other party in writing of such reliance as soon as possible, however at the latest within 5 working days following the occurrence of the nonattributable failure, providing any necessary evidence.

- F.** If supplier states that one or more of its failures are not attributable to it and client accepts this statement, client will still have the right to terminate the contract. Should this situation arise, parties will not charge each other damages.

ARTICLE 10. Guarantee

- A.** Supplier guarantees that the goods and any installation/assembly thereof will conform to the agreements.
- B.** Supplier guarantees that the goods are complete and ready for use. It will make sure that all parts, auxiliary materials, fittings, tools, spare parts, user manuals and instruction books that are necessary to realize the objective indicated by client in writing will be delivered with the goods, even if they have not been specified.
- C.** Supplier guarantees that the delivered goods comply with all relevant statutory provisions regarding quality, environment, safety and health, among other things.
- D.** Supplier guarantees that the guarantee period for the goods to be delivered without further processing amounts to at least 1 year. For consumer products (which Nijburg Products acts as a wholesaler) The guarantee is applicable in accordance with Dutch law.
- E.** If client establishes that the delivered goods do not comply (wholly or in part) with the guarantees made by supplier in accordance with paragraphs a to d of this article, supplier is in default unless the latter is able to prove that the failure is not attributable to it.

ARTICLE 11. Intellectual and industrial property rights

- A.** Supplier guarantees the free and undisturbed use by client of the delivered goods. It indemnifies client against the financial consequences of claims from third parties because of violation of their intellectual and industrial property rights.
- B.** Supplier is entitled to use the information provided by client, however only in connection with the contract. This information is and continues to be client's property.

ARTICLE 12. Documentation

- A.** Supplier is obliged to make the relevant documents available to client prior to or simultaneously with the delivery.
- B.** Client is free to use these documents, which includes their reproduction for its own use.

ARTICLE 13. Liability

- A.** Supplier is liable for all damage that might occur in connection with the execution of the obligations arising from the contract.
- B.** Supplier indemnifies client against all financial consequences of claims from third parties that are connected in any way with the execution of its obligations arising from the contract.
- C.** Client has the right to require supplier to take out an insurance to cover the risks. On client's demand, supplier is obliged to grant client leave to inspect the policy of this insurance.

ARTICLE 14. Transfer of risk and transmission of ownership

- A.** The ownership of the goods passes to the client after they have been delivered and, if necessary, assembled or installed.
- B.** If client puts materials such as raw materials, auxiliary materials, tools, drawings, specifications and software at the disposal of supplier for the performance of its obligations, they remain the property of client. Supplier will store them separately from objects that are the property of supplier itself or third parties. Supplier will mark them as the property of client.
- C.** When materials such as raw materials, auxiliary materials and software from client are incorporated in goods from supplier, this results in a new good that is the property of client. This applies without prejudice to article 14.
- D.** The risk of the goods transfers to client when the delivery and subsequently the approval of the goods in accordance with article 16 of these purchase conditions have taken place.

ARTICLE 15. Secrecy and prohibition to disclose

- A.** Supplier will maintain secrecy in respect of the existence, nature and contents of the contract as well as other company information and not disclose anything about that without written permission from client.
- B.** In the event of a violation of the provisions laid down in the preceding paragraph, supplier will be liable to pay client an immediate fine of € 1.500,00 for each violation. Supplier shall pay the amount of the fine directly after the discovery mentioned above and notification thereof to supplier.

ARTICLE 16. Inspection

- A.** Client is entitled at all times to inspect goods during the production, processing and storage as well as after delivery (or cause them to be inspected).
- B.** On demand, supplier will grant client or its representative access to the place of production, processing or storage. Supplier will render its assistance to the inspection at no cost.
- C.** If an inspection as referred to in this article by supplier's doing cannot take place at the intended time or if an inspection has to be repeated, the costs resulting from this for client will be borne by supplier.
- D.** In case of rejection of the delivered goods, supplier will ensure that the delivered goods are repaired or replaced within 5 working days. If supplier does not comply with this obligation within the period of time set out in this article, client is entitled to purchase the necessary goods from a third party or to take measures itself or have a third party take measures at the expense and risk of supplier.
- E.** If supplier does not take back the rejected delivered goods within 10 working days, client has the right to return the goods to supplier at the latter's expense.

Article 17. Packaging

- A. Client has the right at all times to return the (transport) packaging materials to supplier at the latter's expense.
- B. Supplier is liable for the processing or destruction of (transport) packaging materials. If on request of supplier packaging materials are processed or destroyed, this is done at the expense and risk of supplier.

Article 18. Dissolution

- A. In case supplier fails in the performance of its obligations arising from the contract or other contracts deriving from that contract, as well as in case of its bankruptcy, suspension of payments and in case of close down, withdrawal of any permits, attachment of (a part of) business property or goods intended for the execution of the contract, winding-up or takeover or any similar situation of the company of supplier, it will be automatically in default.
- B. Without prejudice to all other rights, client may terminate the contract wholly or in part if supplier or one of its employees or representatives has offered, offers or gives any benefit to a person forming part of the company of client or to one of its employees or representatives.
- C. In the cases mentioned above, client has the right to unilaterally terminate the contract wholly or in part without further notice of default being required and without judicial intervention.
- D. Termination takes place by a registered letter or writ served on supplier.

Article 19. Order, safety and environment

Supplier and its employees, as well as third parties engaged by supplier are obliged to abide by the statutory safety, health and environmental regulations. This also applies to any company rules and regulations relating to safety, health and environment of client. On request, client will immediately put a copy of these rules and regulations at the disposal of supplier free of charge.

Article 20. Disputes

- A. Any dispute between the parties, including any disagreement which only one party considers to be a dispute, will be resolved by consultation to the extent possible.
- B. If parties cannot agree on a resolution, the dispute will be settled by the competent court in the district within whose jurisdiction the company has its registered office.

ARTICLE 21. Applicable Law

This contract, of which these purchase conditions form part, is exclusively governed by Dutch law. Foreign law and conventions such as the Vienna Sales convention are excluded.

Additional conditions regarding orders and contracting for work on behalf of client

ARTICLE 22. Additional definitions

In these additional purchase conditions, the terms used below are defined as follows:

- **Materials:** goods as mentioned in article 14b that are processed in the creation of corporeal objects, or are used in the execution of the work, with the exception of the equipment to be used.
- **Equipment:** all vehicles, fittings, cranes, scaffolding and parts thereof, consumables and the like that supplier uses in the execution of the contract, however not including the goods that have to be processed in the creation of corporeal objects.

ARTICLE 23. Applicability

- A.** These additional conditions apply to all enquiries, offers and contracts in respect of the execution of orders and/or work contracted by supplier.
- B.** Apart from these additional conditions, the purchase conditions of Nijburg Products BV apply to the enquiries, offers and contracts referred to above, unless the purchase conditions are deviated from by the additional conditions or otherwise, either explicitly or because of the nature of the articles.
- C.** For the purposes of these conditions, supplier's staff also includes third parties that are engaged by supplier in the execution of the contract(s).

ARTICLE 24. Staff, equipment and materials

- A.** Staff engaged by supplier in the execution of the contract must fulfil the special requirements set by client and in default thereof, the general requirements of professional competence and expertise.
- B.** If in the opinion of client the staff is not sufficiently qualified, client is authorized to order the removal of such staff and supplier is obliged to replace them without delay, subject to the provisions set out in paragraph a of this article.
- C.** Client is authorized to inspect all materials and equipment used by supplier in the execution of the contract and to identify the staff that supplier engages in the execution of the contract.

ARTICLE 25. Client's premises

- A.** Before commencing the execution of the contract, supplier has to acquaint itself with the circumstances on the premises of client where the work has to be carried out.
- B.** The costs of any delay in the execution of the contract caused by circumstances as referred to above are at the expense and risk of supplier.

Article 26. Work at client's premises

- A.** Supplier makes sure that its presence and the presence of its staff at the premises of client do not hinder the undisturbed progress of the activities of client and third parties.
- B.** Before commencing with the execution of the contract, supplier and its staff have to acquaint themselves with the contents of the rules and regulations in force at the premises of client in respect of safety, health and environment, among others, and to act accordingly.
- C.** On request, client will put a copy of these rules and regulations at the disposal of supplier.

ARTICLE 27. Payment

- A.** Client will only pay when the work by supplier has been completed to client's satisfaction and/or the order has been executed by supplier at client's satisfaction and after supplier has proven on demand of client that it has paid the staff and employees engaged in the work the amount to which they are entitled.
- B.** Client always has the right to pay supplier the social contributions, BTW (Dutch VAT) and income tax including national insurance contributions which client could be liable to pay as owner-builder pursuant to the 'Wet Ketenaansprakelijkheid' by deposit into its blocked account in the sense of the 'Wet Ketenaansprakelijkheid'.
- C.** Without prejudice to the provisions set out in the preceding paragraph, client is authorized at all times to withdraw the amounts referred to in the preceding paragraph relating to social contributions, BTW and income tax including the national insurance contributions and pay them directly to the industrial insurance board concerned or the collector of direct taxes.
- D.** In the cases referred to in paragraphs b and c of this article, client will be discharged in respect of supplier insofar as these amounts are concerned.

ARTICLE 28. Obligations of supplier

- A.** Supplier is liable for the independent, adequate conclusion of the work under its own responsibility subject to the current regulations on safety and environment, among others.
- B.** The work and/or order has (have) to be executed properly and reliably and according to the provisions of the contract.
- C.** In principal, supplier's authorized representatives are available on the work site during working hours, having to arrange their absence, replacement and accessibility in consultation with client.
- D.** Supplier has to dispose of a valid certificate of registration with the industrial industry board with which it is registered and of a licence to establish a business, if required. On demand of client, supplier has to show it the documents mentioned above.
- E.** On demand of client, supplier has to provide client with a list containing the surname, first name(s), address, city, date and place of birth, tax and social insurance number and employment conditions of all staff that supplier has engaged in the work from week to week.
- F.** On demand of client, supplier has to allow client inspection of the payroll or man-hour account of all staff that supplier has engaged in the work according to a model drawn up by client.
- G.** Supplier must strictly fulfil its obligations towards the staff it engages in the work.
- H.** On demand, supplier will have to furnish client with a copy of the statements regarding its payment record from the industrial insurance board and the collector of the direct taxes.
- I.** Supplier has to indemnify client against liability towards third parties because of supplier's failure to perform its obligations arising from the contract or pursuant to the law.
- J.** Supplier will independently execute the contract according to the latest technical standards and is responsible for that.
- K.** Supplier has to take any residues and packaging materials with him after having performed its obligations.