

GENERAL PURCHASING TERMS AND CONDITIONS for products and services

of

BOSKALIS

A. GENERAL PROVISIONS

Article 1. Definitions

In these General Terms and Conditions, the following terms will be understood to have the meanings assigned to them below:

- 1.1 Buyer: Baggermaatschappij Boskalis B.V. having its registered office at Rosmolenweg 20, in Papendrecht, the Netherlands, or an affiliated company as stated in the Order.
- 1.2 Supplier: Each natural person or legal entity from which the Buyer orders Products and/or Services and/or with which the Buyer negotiates regarding the Order for Products and/or Services.
- 1.3 Order: The Buyer's Order issued to the Supplier to supply Products and/or perform Services in the format described in Appendix 1 to these General Purchasing Terms and Conditions.
- 1.4 Products: All goods delivered, or to be delivered, to the Buyer in the context of performing the Order, regardless of whether the Order exclusively involves the supply of those goods or whether it also involves the supply of Services.
- 1.5 Services: The performance that the Supplier renders to the Buyer pursuant to the Order, to the extent this does not consist of supplying Products.
- 1.6 Specification: Detailed description of the Products and/or Services to be supplied by the Supplier as stated in the Order.
- 1.7 Agreement: Agreement between the Buyer and the Supplier regarding the Order.

Article 2. Applicability of these Terms and Conditions

- 2.1 These Terms and Conditions are – to the express exclusion of the Supplier's terms and conditions – applicable to all Orders between the Buyer and the Supplier, as well as to any ensuing or related agreements or further agreements. These Terms and Conditions are also applicable to negotiations regarding such Orders or Agreements, even if said negotiations do not result in the conclusion of an Agreement. The Supplier shall be considered to make his/her/its offer based on these Terms and Conditions.
- 2.2 Regardless of their form, deviations from or supplements to these Terms and Conditions shall only apply if the Buyer has consented to same in writing.
- 2.3 If there is a difference in meaning between the Dutch-language version of these Terms and Conditions and the translation of these Terms and Conditions into another language, the Dutch-language version shall prevail.
- 2.4 If there is a conflict or lack of clarity between documents, or within a document, constituting the Agreement, the Supplier shall notify the Buyer immediately. The Buyer shall then determine which document will prevail. The Supplier shall not be entitled to receive an extra reimbursement or to postpone his/her/its supply.

Article 3. Applicable law

- 3.1 These Terms and Conditions, all Orders placed by the Buyer and all Agreements concluded between the parties are governed by the laws of the Netherlands. The applicability of the United Nations Treaty Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) [*Verdrag der Verenigde Naties inzake Internationale Koopovereenkomsten Betreffende Roerende Zaken (Weens Koopverdrag)*] is expressly excluded.

Article 4. Order

- 4.1 The Buyer shall only be bound by Orders that are confirmed by the Supplier's returning, within 14 days of receiving the Order, of a signed copy of the Order provided by the Buyer, unless the Order specifies another term. As long as the Supplier has not confirmed the Order as described above, the Buyer shall be entitled to cancel the Order by providing written notice to the Supplier of same, without the Buyer being liable for any payment of damages or other compensation to the Supplier.
- 4.2 Offers, delivery deadlines, warranties, specifications and price lists provided by the Supplier, as well as other provisions agreed in writing, may not be unilaterally changed after their issue.
- 4.3 The Agreement shall be concluded by the timely confirmation of the Order in accordance with Article 4.1. The content of the Agreement shall be determined exclusively by the Order and these Terms and Conditions.

Article 5. Prices

- 5.1 The prices stated in the Order are fixed. The parties must jointly agree to any changes to those prices.
- 5.2 The prices of the Products include the standard packaging and duty-paid delivery ("DDP") to the destination specified by the Buyer (Incoterms 2010), in accordance with Article 13. Moreover, the prices for all Products and Services also include all preparatory and other work necessary to satisfy the requirements imposed by the Buyer, the descriptions and the Specification.

B. PERFORMANCE OF THE AGREEMENT

Article 6. Outsourcing

- 6.1 The Supplier shall perform the Order himself/herself/itself, unless the Buyer has expressly granted its prior written consent to permission to, or has issued a written Order allowing, the Supplier to contract out work, use any sub-contractors, or source any products or services from third parties. The Supplier shall be fully responsible for the performance of third parties engaged in performing the Order as if it were his/her/its own performance.

6.2 The Supplier shall indemnify the Buyer against all claims made by third parties involved in performing the Order.

Article 7. Timely performance

- 7.1 The Supplier must perform the Order within the term for performance stated in the Order. The term for performance commences on the Order date, unless the parties agree otherwise in writing.
- 7.2 Should the Supplier fail to meet all or part of the requirements laid down in Article 7.1, the Supplier will immediately be in default without any notice of default being required. In such case, the Buyer shall be entitled, without judicial intervention and without prejudice to its other rights, to terminate the entire Order or to terminate that part of the Order that has not been performed (and to have a third party perform same at the Supplier's expense).
- 7.3 As soon as circumstances arise or may be foreseen which prevent the Supplier from satisfying the obligations laid down in Article 7.1, the Supplier shall notify the Buyer immediately of this fact in writing, stating the nature of the circumstances, the measures the Supplier has taken and the expected duration of the delay, in default of which the Supplier will be precluded from citing these circumstances at a later time. A claim of *force majeure* shall not release the Supplier from his/her/its obligations if he/she/it has not complied with the provisions of this Article.

Article 8. Postponement of delivery

- 8.1 The Buyer shall be entitled to postpone the delivery of the Products for a reasonable period of time by providing the Supplier with a written statement to that effect. In the aforementioned statement, the Buyer shall indicate the period of time for which the delivery term will be extended.
- 8.2 If the Buyer avails itself of the right referred to in Article 8.1, the Supplier shall store the Products in a suitable place in such a manner that they are identifiable as being destined for the Buyer and shall take suitable measures to prevent a loss of quality in the Products. The Buyer shall pay the Supplier a reasonable amount of direct costs incurred in relation to said storage.

Article 9. Performance according to the Specification

- 9.1 The Supplier shall be obliged to perform the Order in strict accordance with the Specification and with due observance of the usual requirements of proper and good workmanship.
- 9.2 The Buyer shall be entitled to amend the Specification. Should this amendment result in a substantial change in the costs or the time necessary for the performance of the Order, then the price or date of delivery or supply of the Order will be reasonably adjusted accordingly.
- 9.3 The Supplier shall inform the Buyer within 10 working days of receiving written notification of the amendment if the amendment will result in a substantial change in the costs or the time necessary for the performance of the Order, in default of which the Supplier shall forfeit his/her/its right to adjust the Order. In anticipation of an Agreement between the parties concerning the possible amendment of the Order, the Supplier shall perform the Order in accordance with the amendment proposed by the Buyer.

Article 10. Quality guarantee

- 10.1 The Supplier shall warrant the proper quality of the Products delivered and/or Services performed by he/she/it. In particular, the Supplier shall in any case warrant that:
- The Products and/or Services are suitable for the purpose for which they are intended;
 - The Products are new, of good quality and free of defects in design, processing, fabrication, construction and measurement, as well as free of defects in the parts and/or materials used;
 - The Products and/or Services have been manufactured and/or performed in accordance with the most recent state of the art;
 - The Products and/or Services conform completely with the Specification and the other provisions of the Agreement;
 - The Products and/or Services are fully in compliance with all of the applicable laws, regulations, etc.
- 10.2 The Products and/or Services shall in any case be considered unsuitable if, within 1 year of delivery, defects become apparent, unless same are attributable to gross negligence on the part of the Buyer, intentional misuse by the Buyer or the Buyer's substantial failure to perform proper maintenance.

Article 11. Inspection before delivery

- 11.1 The Buyer shall at all times be entitled to examine or test Products before delivery, during their processing, manufacture or storage, or to cause same to be done. The Supplier shall always grant the Buyer, or an expert designated by the Buyer, access to the necessary facilities and offer all due assistance free of charge.
- 11.2 The Supplier shall notify the Buyer in good time of all tests to be performed by the Supplier. The Buyer shall be entitled to attend these tests or to have them attended by an expert it designates.
- 11.3 Regardless of whether the Buyer has availed itself of the rights stipulated in Articles 11.1 and 11.2, and regardless of the outcome of the examinations and tests referred to in those Articles, the Supplier shall always remain fully responsible for the proper performance of the Order.

Article 12. Delivery

- 12.1 The Supplier shall pack and/or safeguard the Products in such a way as to ensure that they will reach their destination in good condition when shipped by normal means of transport, and that they may safely be unloaded once they reach their destination. The Supplier shall duly observe and use all due care in meeting any special packaging and/or safety requirements imposed by the Buyer, provided that the Buyer has notified the Supplier of same in good time. The packaging must always comply with the relevant statutory requirements.
- 12.2 The Supplier shall strictly conform with the Buyer's instructions regarding preservation, certification, labelling, shipment, transport documents to accompany delivery, etc.
- 12.3 The Buyer shall be entitled to reject shipments which do not conform with the provisions of Article 12.1 and/or 12.2.
- 12.4 The Buyer reserves the right to return packaging materials to the Supplier at the Supplier's risk and expense, and to receive a credit for the amount that the Supplier has charged the Buyer for this packaging. The Supplier shall use all due care and shall suitably insure packaging or transport materials that the Buyer lends to the Supplier.

- 12.5 The Products must be delivered DDP (Incoterms 2010) at the location designated by the Buyer. The Supplier is obliged to ensure proper standard packaging and suitable transport. Partial deliveries of Products are permitted only if such are expressly stipulated in the Order. Delivery shall take place entirely at the Supplier's risk and expense, even if the Supplier uses the services of the Buyer's staff in performing any aspect of the delivery.

Article 13. Inspection after delivery

- 13.1 Unless agreed otherwise in the Order, the Buyer shall inspect the Products or assess the Services within a reasonable time of their being delivered or performed, respectively. If that inspection indicates that the Products or Services are inconsistent with the Order, then the Buyer shall return the Products or reject the Services or shall accept the Products and/or Services at a lower price.
- 13.2 The inspection shall not preclude the Buyer from claiming the Supplier's non-performance of his/her/its warranty obligations stipulated in Article 10 or of any other obligations the Supplier may have to the Buyer.
- 13.3 Sections 6:89 and 7:23 Dutch Civil Code [BW] shall not apply.

Article 14. Transfer of ownership and risk

- 14.1 The Buyer shall acquire ownership of the Products after these have been delivered or paid for, whichever is earlier. The Supplier shall bear the risk of harm to or loss of the Products until the time at which the Products are delivered to, and accepted by, the Buyer.
- 14.2 Contrary to the provisions of Article 14.1, the Buyer shall acquire ownership of the Products, as referred to in Article 8, when these are put into storage for the Buyer.
- 14.3 If incomplete Products have been paid for in advance, the Buyer shall (by virtue of the advance payment it has made) acquire ownership of all materials, raw materials and semi-manufactured materials with effect from the date of the advance payment, without any further act of delivery being required. The Supplier shall keep these Products separate, free from encumbrances and duties, on behalf of the Buyer.
- 14.4 Even if ownership has been transferred pursuant to Article 14.2 or 14.3, the Supplier shall bear the risk of harm to or loss of the Products until the date on which the Products are delivered to, and accepted by, the Buyer.
- 14.5 The Supplier warrants that the Products to be delivered will be free of attachment, retention of title, third-party rights, etc., and that the Buyer shall have unrestricted access to the Products and/or Services. The Supplier shall indemnify the Buyer for all harm or loss ensuing from breaching this Article.

Article 15. Payment, assignment and offset

- 15.1 The Buyer shall not owe payment until the Order has been performed in full. The Supplier shall be entitled to issue an invoice once performance is complete in accordance with the Order. The payment term is 45 days from the Buyer's receipt of the relevant invoice.
- 15.2 The Supplier shall never be entitled to transfer his/her/its claims against the Buyer to any third party, unless the Buyer has furnished its written consent to same.
- 15.3 The Buyer shall be entitled to offset all debts it owes to the Supplier against any claim that the Buyer has against the Supplier or against a group company affiliated with the Supplier. If the claim offset by the Buyer has not yet become due, a discount shall apply in an amount equal to the statutory interest owed for the period between the offset date and the due date.
- 15.4 Without prejudice to its statutory rights to postpone performance, the Buyer shall be entitled to suspend payment to the Supplier as long as the Supplier, or a group company affiliated with the Supplier, continues to default on his/her/its obligations pursuant to other agreements between the parties.
- 15.5 If Products are stored in accordance with Article 8, the payment shall be owed within the term referred to in Article 15.1 after the storage of the Products begins.
- 15.6 The Buyer shall be entitled to assign the Agreement to a third party without the Supplier's consent.

Article 16. Goods made available by the Buyer

- 16.1 The Buyer shall remain the owner of all goods made available to the Supplier in connection with the Order. The Supplier shall at all times refrain from using these goods in such a way that third parties acquire ownership of same through alteration, accession, confusion or any other cause. If the aforementioned goods become part of a Product, the Buyer shall, contrary to the provisions of Article 14, acquire ownership of that Product by operation of law without any further act of delivery being required. This provision shall not prejudice the provisions regarding risk contained in Article 14, which shall remain in full force and effect.
- 16.2 The Supplier shall, at his/her/its own expense and on behalf of the Buyer, ensure that all of the goods that he/she/it receives from the Buyer are insured, under the usual terms and conditions, against all harm or loss that could result from the full or partial loss of, or harm to, those goods, regardless of the cause of same.
- 16.3 Immediately after the Order is performed and unless the Buyer instructs the Supplier otherwise in writing, the Supplier shall return, in good condition, all models, stamps, drawings or other tools that the Buyer has provided to the Supplier. The Supplier shall use these tools entirely at his/her/its own risk; the Buyer shall never be liable for any negative consequences, including but not limited to damages, losses etc. ensuing from the use of these tools by the Supplier or any third parties. The Supplier shall not use these tools for any purpose, or authorise or allow the tools to be used by a third party for purposes, other than in connection with the proper performance of the Order.

Article 17. Liability and indemnity

- 17.1 The Supplier shall perform the Order entirely at his/her/its own risk. The Supplier shall compensate all harm or loss resulting from or connected with the performance of the Order that is incurred by the Buyer or by third parties, regardless of whether that harm or loss is caused by the Supplier, his/her/its personnel or parties whom the Supplier has involved in the performance of the Order.
- 17.2 The Supplier shall be fully liable for any harm or loss that the Buyer or third parties may incur as a result of any defects in the Products supplied and/or the Services rendered, even if the Supplier is not culpable in any way for the creation or existence of those defects.

- 17.3 The provisions of Articles 17.1 and 17.2 shall also inure to the benefit of any aggrieved third parties referred to therein. The Supplier shall indemnify the Buyer against all claims which such third parties may assert against the Buyer.
- 17.4 The Supplier is obliged to obtain adequate insurances from a reputable insurer to cover his/her/its obligations and liabilities pursuant to an Agreement or the applicable law.
- 17.5 The Buyer shall be entitled to examine the policy or policies referred to in Articles 16.2 and 17.4, which policies must list the Buyer as a co-insured party, and, if so requested by the Buyer, the Supplier must furnish proof that the premiums for such insurance policy or policies have been paid.

Article 18. Breach by or insolvency of the Supplier

- 18.1 If the Supplier fails to perform any of his/her/its obligations pursuant to the Agreement or other agreements ensuing therefrom, or fails to do same properly or in a timely fashion, and, in any case, if:
- the Supplier is declared bankrupt, put into receivership or placed under administration;
 - the Supplier receives or requests a suspension of payment;
 - the Supplier participates in a debt-restructuring scheme, whether or not voluntarily;
 - the Supplier ceases to operate all or a substantial part of his/her/its business, transfers it to a third party or liquidates it in another manner;
 - an attachment is levied in such a manner that there are reasonable grounds for doubting whether the Supplier will be able to continue all or part of his/her/its business activities (or those relevant to the Buyer),
- then the Buyer shall be entitled, without any further notice of default and/or judicial intervention being required, to dissolve all or part of the Agreement, without prejudice to the Buyer's right to claim compensation for all loss or harm, expenses (including related judicial and extrajudicial expenses) and interest expenses it incurs.
- 18.2 Any claims which the Buyer may have or may acquire against the Supplier in the above cases shall immediately be due and payable in full.
- 18.3 Notwithstanding a dissolution of the Agreement as referred to in Article 18.1, the Buyer shall retain all of its rights and the Supplier shall retain all of his/her/its obligations as stipulated in these Terms and Conditions or pursuant to the applicable law.
- 18.4 The Buyer shall at all times be entitled to terminate all or part of the Agreement by observing a written term of notice. In such case, the Buyer shall reimburse the Supplier only the direct expenses incurred prior to the termination, plus the direct costs relating to the termination of the Agreement.

C. ADDITIONAL PROVISIONS APPLICABLE TO SERVICES.

Article 19. Suspension

- 19.1 The Buyer shall be entitled to postpone or suspend performance of the Services for a reasonable period of time, free of charge, by providing the Supplier with a written statement to that effect. The Buyer's written statement shall indicate the amount of time for which the term for performance is being extended or when the Service may be resumed.

Article 20. Performance and supply

- 20.1 The Supplier shall perform the Services in accordance with the Agreement and with the expertise that may be expected from an experienced Supplier and shall comply with all standing rules, codes of conduct and safety regulations, etc., imposed by the Buyer.
- 20.2 The Supplier shall notify the Buyer in writing when the Supplier believes that the Services have been fully and correctly performed. The Buyer shall notify the Supplier within a reasonable period of time whether or not the Services are approved. The Services shall only be considered to have been accepted by the Buyer after the Buyer provides the Supplier with written notification that the Services have been rendered to the Buyer's satisfaction.

D. OTHER PROVISIONS

Article 21. Intellectual property

- 21.1 The Supplier grants the Buyer a non-exclusive, irrevocable licence, subject to any intellectual property and other exclusive rights regarding the Products supplied. Pursuant to this licence, the Buyer shall have the right to use and apply, in the course of the Buyer's own business, the inventions and know-how incorporated into the Products to the extent these are protected by the rights referred to, including to repair the Products and/or to cause them to be repaired, and the Buyer shall also be authorised to supply the Products to third parties, whether or not the Products are supplied to the third parties as a component of other goods. The fee for this licence is included in the price.
- 21.2 The Supplier warrants that the Products do not infringe the intellectual property rights of any third parties and shall indemnify the Buyer, companies affiliated with the Buyer and the Buyer's clients and customers for all costs, loss or harm that may arise as the result of any infringement or alleged infringement of such rights.

Article 22. Confidentiality

- 22.1 The Supplier is required to observe strict confidentiality with regard to all of the information he/she/it may obtain in connection with the Agreement or the performance thereof, including the nature of, the reason for and the result of the Order the Supplier performs.

Article 23. Disputes

- 23.1 All disputes (including issues that may be considered disputes by only one of the parties) that may arise in relation to the Agreement or any additional Agreements ensuing therefrom, shall be submitted for litigation exclusively to the competent court in Rotterdam, the Netherlands.

Article 24. General Code of Conduct for Suppliers

24.1 By entering into the Agreement, the Supplier certifies that he/she/it is familiar with, and shall fully comply with, the Buyer's General Code of Conduct for Suppliers [*Algemene gedragscode voor Toeleveranciers*] and agrees that any violation thereof could result in an immediate termination of the Agreement as described in Article 18.

Article 25. NINA (No Incidents, No Accidents)

25.1 The Buyer, as part of the Boskalis group, is bound by and subject to the "NINA" (No Incidents, No Accidents) safety programme, which can be viewed on the following website: www.boskalis.com.

25.2 The Supplier shall be subject to the NINA safety programme throughout his/her/its performance of the Order. The Supplier shall ensure that his/her/its personnel are aware of the NINA safety programme and that they fully comply with same.

Appendix 1

The Order shall be dated and numbered and will in any case contain:

- a. a description of the work to be performed (the "Services");
- b. a description of the Parts and/or Materials to be supplied (the "Products");
- c. the performance schedule (the "Performance Schedule");
- d. the date(s) for payment;
- e. to the extent applicable, the required qualifications for employees to be deployed by the Supplier;
- f. the name of Boskalis' coordinator;
- g. quality standards;
- h. location where the Order will be performed.