

GENERAL TERMS AND CONDITIONS OF QUOTATION, DELIVERY AND PAYMENT



Article 1 SCOPE

1. These terms and conditions apply to all agreements and offers for the delivery of panelling, project fittings, shop fittings, furniture and upholstery as well as to all other items that are included in the work, regardless of whether the order has been obtained by means of a tender or otherwise.
2. Subject to the other provisions of these General Terms and Conditions, the General Terms and Conditions, for Tenders or otherwise, used by the potential buyer do not apply unless they have been expressly accepted in writing by the tenderer.

Article 2 REGISTRATION CONDITIONS OF THE POTENTIAL BUYER

1. The registration conditions must be the same for all tenderers. In the event of inequality, the most favourable registration conditions apply to the tenderers.
2. The tender period for objects of any size must be at least 10 working days, in order to enable the tenderers to submit a properly calculated tender.
3. The information to be provided by the potential buyer must meet reasonable requirements of clarity and accuracy and fully correspond to any associated drawings. The number of items must be precisely indicated. For this reason, a request for proposal that does not meet these conditions may be rejected and returned.

Article 3 COPYRIGHT

1. The tenderer reserves the copyright to the designs, images and drawings, sketches and/or quotations provided with the tender. These documents remain the tenderer's property - regardless of whether the drawing costs have been or will be charged separately, unless a separate amount has been or will be charged for the transfer of copyrights.
2. Without the written consent of the tenderer, the drawings, designs, images, sketches and/or quotations provided may not be copied, shown to third parties or used in any other way.
3. The drawings, designs, images, sketches and/or quotations provided by the tenderer must be returned to the tenderer free of charge within 14 days of the date that it was decided that the tenderer will not be awarded an assignment for the performance of the work, unless otherwise agreed in writing.
4. The client, acting in violation of the provisions of Article 3 (2) and (3), owes the tenderer an amount equal to ten percent of the amount of the quotation made in the tender, which amount the client will pay in that case on the tenderer's first reminder. This payment does not transfer ownership and copyright.

Article 4 PROVISIONAL SUMS

1. Unless otherwise agreed in writing, the price of quotations for orders to deliver a fitting or part thereof to be set up and/or installed on site does not include:
 - a. ground, piling, chopping, breaking, foundation, masonry, carpentry, plastering, painting, wallpapering, repair or other structural work of any kind, nor the cost of connections to the main sewerage network, gas or water or electricity network, the levelling and cleaning of floors, walls or ceilings or the cleaning of items other than those to be delivered;
 - b. the additional help for carrying those parts that cannot be handled by the contractor, as well as the hoisting or lifting equipment and hoists to be used for this purpose.

Article 5 QUOTATIONS

1. All prices quoted are net, excluding value added tax, and are based on execution during normal working hours. A quotation is only binding on the tenderer if this is expressly stated in writing in the quotation or otherwise expressly communicated to the potential buyer in writing. A quotation that is binding on the tenderer on the basis of the provisions here expires 30 days after the quotation date.
2. The tenderer is entitled to charge increases in wages, raw material prices, transport costs, exchange rates, insurance premiums and levies from the government (in particular taxes) to the potential buyer for that work and/or (parts of) fittings to be installed that are yet to be completed and/or delivered by the tenderer at the time these increases take effect.

3. The tenderer reserves the right to make minor changes to the construction, insofar as this does not bring about a substantial change in the work. The quotation will include information on how any additional work will be settled.
4. If the assignment for the performance of the work is not awarded to the tenderer, the potential buyer undertakes to return the tender—complete with designs, images and drawings—to the tenderer within 14 days of the date of the decision (Art. 3 paragraphs 3 and 4).
5. With due observance of the provisions of paragraph 2 of this article, the quoted prices are fixed for the duration of the work, unless indexation has been agreed. If indexation has been agreed, it will be based on the price index series for domestic production of Statistics Netherlands (CBS), unless otherwise agreed.

Article 6 RESPONSIBILITY FOR THE WORK

1. The provider is responsible for the proper performance of the work.
2. The provider accepts no responsibility for a design developed by or on behalf of the potential buyer, buyer and/or client by third parties, nor for any specification of dimensions, sizes and materials presented in this design.
3. In the event of an assignment, the contractor shall only assume responsibility for the correct assembly and for the soundness of the materials used in designs that the contractor has not made; however, this shall not apply to those parts for which a particular brand or treatment of materials is expressly prescribed in the request for proposals.
4. If the potential buyer wishes to transfer the responsibility for the design made by or on behalf of the potential buyer to the contractor, the contractor will not be obliged to accept this until after the contractor has been given sufficient time to make a decision regarding this transfer, whereby the contractor must be able to study and re-calculate the entire design and must be provided with all relevant data and documents. The contractor cannot be required to do so free of charge, unless it is apparent from the request for proposal that the client wishes to transfer responsibility to the contractor.
5. If the client makes material or parts available for further processing or assembly, then the contractor is responsible for correct processing or assembly, but never for the materials or parts themselves. The contractor is not liable for damage due to death or physical injury, consequential damage or damage of any other kind, which is related to the (inadequacy of) the materials or parts made available by the client for further processing or assembly, regardless of processing or modification thereof by the contractor or third parties. The client fully indemnifies the contractor against all claims for compensation for damage suffered by the contractor's staff and/or third parties, including damage resulting from or as a result of product liability.

Article 7 AWARD

1. The agreement is concluded by informing the contractor that the contractor has been awarded the assignment. If the notification is done orally, the client will confirm this notification in writing, stating the date of the notification, which confirmation is deemed to be complete proof.
2. If no written notification of the award to the contractor by the client has been made within seven days, the contractor will confirm the assignment in writing to the client, stating the date of the notification. The content of this assignment confirmation is binding on the client, unless the client has disputed its accuracy in writing within 14 days after the sending of the assignment confirmation. If the client has not responded within 14 days after receipt of the assignment confirmation, the assignment shall be deemed irrevocable.
3. All price changes will be settled in accordance with the provisions of Article 5 paragraph 5, unless the notification of the award is made on a day after the deadline of the acceptance of the offer (Article 5 paragraph 1), in which case the price changes will be settled since the last day of acceptance.

Article 8 CHANGES

1. Changes to the agreement and deviations from these General Terms and Conditions will only be effective if they have been agreed in writing between the tenderer/contractor and the potential buyer/client.

Article 9 DISSOLUTION

1. If the client does not, does not in a timely manner or does not properly comply with the obligations arising from any agreement concluded with the contractor on the basis of these terms and conditions, as well as in the event of suspension of payments, of the tender process or of the granting of suspension of payments, of bankruptcy or liquidation of the client's property, or of the client's death, or if the client loses access to their assets due to seizure or otherwise, the contractor is entitled to dissolve the agreement or parts thereof that are yet to be executed, without notice of default and without any judicial intervention being required, and to take back the goods delivered, insofar as they have not yet been paid, without prejudice to the contractor's right to compensation for any loss, loss of profit and other damage that may arise from any of the above.
2. In the cases referred to in paragraph 1, any claim that the contractor has against the client is immediately due and payable.
3. Under the circumstances referred to in paragraph 1 of this article, the client is also entitled to dissolve the agreement. In that case, the client will be entitled to take back any material delivered by the client, insofar as it has not yet been paid for. With regard to the damage compensation, the amount referred to in paragraph 4 of this article will be due, unless the parties expressly agree otherwise in writing.
4. If the dissolution, as stated in paragraph 3, is approved by the contractor, the client will owe the contractor an amount equal to the costs incurred up to that point, plus 25% of the remaining amount of the assignment stated in the quotation, unless the parties agree otherwise in writing.

Article 10 DELIVERY TIME

1. The delivery time starts as soon as the agreement has been concluded and all data necessary for the start of the performance of the work is in the possession of the contractor. The client is obliged to inform the contractor in a timely manner of all data and choice provisions that are necessary for the progress of the work.
2. The specified delivery times are not to be regarded as strict deadlines. By simply exceeding this period, the contractor is therefore not automatically in default, and the client cannot terminate the relevant agreement. The contractor must therefore first be given notice of default in this regard.

Article 11 CHANGES TO THE ACCEPTED WORK

1. All changes in accepted work, either as a result of a special assignment from the client, or as a result of a change in the construction or caused by the fact that the information provided does not correspond to the actual execution of the construction, will be charged as additional work if more costs arise from this and insofar as less costs arise from this as less work.
2. Additional and less work will be settled in a fair manner, regardless of the obligation to pay the principal sum.

Article 12 NON-ATTRIBUTABLE SHORTCOMINGS

1. If the normal performance or delivery of the work is hindered by a non-attributable shortcoming, the contractor is entitled to exceed the agreed delivery time by at least the duration of the period of non-attributable shortcoming. Non-attributable shortcomings include strikes, business disruptions, occupancy and force majeure on the part of suppliers. A non-attributable shortcoming is also understood to mean if facts or circumstances occur, under which the contractor cannot be expected to perform the work.

Article 13 PERFORMANCE OF THE WORK

1. Unless otherwise agreed in writing, the client is obliged, under penalty of compensation for damage and costs, to ensure:
 - a. that the place where the goods, materials and/or tools to be assembled must be stored or where the delivery must take place is such that damage, in any form and in any way, or theft will not take place;
 - b. that access to the place where the delivery and/or assembly must take place is unobstructed and sufficient and, furthermore, that all cooperation is provided to ensure smooth delivery, assembly and/or finishing; c. that, if a hoist, lift or other means of transport must be used, it is made available with staffing by and at the expense of the client. The instrument to be used must comply with the government regulations applicable at the time of use. Damage is incurred at the expense of the client, unless fault on the part of the contractor is established;
 - d. that (sub-)floors are free of lime, cement and dirt residues and of loose parts, if necessary, unless otherwise agreed in writing, are completely flat and level and are made available swept clean;
 - e. that electricity, air, water and, if necessary, heating are provided in the space in which work must be performed;

- f. that, if others must also perform work in the relevant space, this work is completed before the contractor starts work, so that the contractor can perform the work without hindrance;

- g. that, in the case of renovation work and/or refurbishing of the interior, the business premises are closed to the public during the performance of the work.

Article 14 RISK AND STORAGE

1. Unless the contractor has stated otherwise in writing, the risk of the goods, materials and work performed is at the expense of the client from the time of delivery of the goods and materials at the place of use, or from the time of commencement of the work.
2. If the delivery cannot take place at the designated time through no fault of the contractor, the goods will be stored at the expense and risk of the client.
3. If the client is overdue in paying any instalment, the contractor is entitled to store the goods at the expense and risk of the client and to postpone the first delivery until all instalments due have been paid.

Article 15 RETENTION OF TITLE/UNDISCLOSED PLEDGE

1. All items supplied to or at the work remain the property of the contractor until the client has fully met the payment obligations, including additional work, additional costs and interim price increases. In addition, the contractor—both now and in the future—delivers all goods under the agreements concluded and yet to be concluded with the client, subject to an undisclosed pledge on all such goods for the benefit of the contractor. After the retention of title has lapsed, the client will therefore have the goods delivered encumbered with an undisclosed pledge in favour of the contractor. These pledges serve as additional security for the payment of everything that the contractor has to claim from the client for whatever reason.
2. Any intervention by third parties must be communicated immediately by the client. The costs and/or losses incurred by not communicating these directly will be borne by the client.

Article 16 PAYMENT

1. Unless the parties agree otherwise in writing, payment will be made as follows:
 - 30% on assignment
 - 30% at the start of work
 - 30% at the start of installation work
 - 10% at the time of completed installation or commissioning before the installation is complete.
2. With the fourth payment, the client will be able to withhold 5% of the contract sum as security in connection with the warranty referred to in Article 17 paragraph 1 and for small parts of the work that may not have been completed yet. This amount withheld is due and payable as soon as the contractor has fulfilled the aforementioned warranty obligation.
3. However, if it turns out that the finished goods must be stored, the third and fourth payments (if desired reduced by 5% of the contract sum for the guarantee) will be due and payable at the time the goods are ready for delivery, but minus installation costs to be determined. In that case, the installation costs will be due and payable at the time of the first delivery of the work.
4. All payments must be made without any deduction or debt settlement at the office of the contractor or to an account to be designated by the contractor. If the client does not pay any instalment within fourteen days after the due date, the client will be in default without any notice of default being required.
5. From the day that payment must be made, the client owes an interest payment of 1% of the invoice amount for each month or part of a month by which the due date is exceeded.
6. By simply concluding the agreement, the client is obliged to compensate for the extrajudicial collection costs in the amount of the amounts owed to lawyers under the last applicable collection rate, regardless of the interest compensation referred to in Article 16 paragraph 5.

Article 17 WARRANTY

1. After the first delivery of the work, a warranty period of three months applies.
2. For manufacturing defects, which by their nature can be discovered after a longer period of time, a warranty period of one year applies after the first delivery.
3. If partial delivery of the work takes place, the warranty periods will start upon delivery of these parts.
4. The warranty obligation lapses with regard to those parts of the work that are defective if repairs or other work have been performed by others without the written permission of the contractor.
5. No warranty shall apply to constructions or materials prescribed by the client or to material or part of the work supplied by third parties by the client or on the client's instructions, unless done with the express approval of the contractor.

6. Repairs or changes related to paragraph 5 will not be performed by the contractor at the expense of the client, unless the contractor has given its approval in accordance with the provisions of paragraph 5.
7. If a space in which the work is performed is taken into use before completion/commissioning, this is entirely at the risk of the client.
8. No warranty applies to glass, discoloration of wood, or minor colour deviations of wood and other materials.
9. The warranty only applies to use for which the work is intended according to the assignment; if nothing else has been agreed regarding intended use, the warranty only applies for normal use.
10. The warranty only applies under normal circumstances. This includes, among other things: ensuring adequate humidity in the environment, no exposure to excessive humidity or drought, cold, heat etc.

Article 18 CLAIMS

1. Claims can only be asserted if they are communicated in writing within 7 days of the discovery of the defects, with a clear description of the defects identified, in the absence of which claims no longer need to be handled. Claims can only be asserted in respect of items that are still in the condition in which they were delivered immediately prior to the moment that the defects were discovered.

Article 19 DISPUTES

1. All offers, agreements and their performance are exclusively governed by Dutch law.
2. All disputes, insofar as they exceed the jurisdiction of the district court, will be settled by the Court in the district where the seller is located.

Article 20 LIMITATION OF LIABILITY

1. The liability of the contractor for damage caused by defects in the delivered goods is limited to the net invoice amount of the delivered goods.
2. The contractor shall never be liable for indirect damage, including damage to third parties or loss of profits.
3. The contractor is not liable for damage arising from constructions or materials prescribed by the client, or from materials or parts of the work supplied by third parties on behalf of the client.

Article 21 CLOSING PROVISION

1. These general terms and conditions of quotation, delivery and payment may be cited as: "General Terms and Conditions of Quotation, Delivery and Payment of the Interior Construction section of the Central Association of Furniture Manufacturers" filed in Haarlem on 2 February 2010 under number 3/2010.