

General Purchase Conditions NEWES B.V.

1- General

- 1a These general purchase conditions (hereinafter to be referred to as GPC) shall apply to all applications, agreements and other legal acts relating to the purchase of goods and services (hereinafter to be referred to as "the delivery") by NEWES, a private company with limited liability, (hereinafter to be referred to as "the Principal"). Alterations to these GPC and/or the conditions of the Seller of the goods and services (hereinafter to be referred to as "the Supplier") shall only apply after explicit acceptance in writing by the Principal.
- 1b- These GPC have been drawn up in Dutch and English. The version in the Dutch language prevails over the version in the English language.
- 1c- The Supplier shall confirm the agreement unconditionally by returning the signed order confirmation form of the Principal within ten calendar days after the sending/delivery of the agreement by the Principal to the Supplier. In default of which the Supplier is deemed to have accepted this agreement and these general purchase conditions.
- 2- **Quality guarantee; inspections, assessments and tests; acceptance**
- 2a- The Supplier guarantees that the Delivery:
- is of good quality and is fully in accordance with the requirements included in the agreement, specifications, drawings, calculations and other documents supplied by the Principal or others;
 - is complete and fit for its designated purpose;
 - complies with all applicable codes, standards and guidelines latest editions, statutory requirements and government regulations also in the field of safety and environment;
 - is free of defects and that new materials and skilled personnel were used for the execution of the agreement;
 - does not infringe any intellectual property rights and/or industrial property rights of third parties;
 - is ready or finished to such an extent as included in the agreement, on the times and places as included in the agreement.
- 2b- The Principal, his client and third parties brought in by the Principal or the client, at all times have the right to inspect, test, examine and check the Delivery or parts thereof and the progress thereof at the Supplier or the suppliers brought in by the Supplier.
- The Supplier and the suppliers brought in by the Supplier shall fully co-operate with these inspections, tests and examinations. The Principal shall be informed in time by the Supplier of the date of the inspections, tests and examinations, which shall be initiated pursuant to the agreement. The costs involved with the inspections, tests and examinations are for the Supplier's account, unless provided otherwise in the agreement. All of the inspections, tests and examinations shall be carried out on the basis of the provisions of article 2a. If in the opinion of the Principal there are doubts about the quality additional inspections, tests and examinations and tests have to be done even if not included or mentioned in the agreement. This is required to prove whether the Delivery meets the provisions of article 2a. These costs shall be for the account of the Supplier. The Supplier has the obligation to provide all reports, tests results, inspections and control reports, including internal reports, at the request of the Principal.
- 2c- Approvals, inspections, tests and examinations in any form and for any reason as well as taking delivery by the Principal of drawings, calculations, specifications or the Delivery or parts thereof and making payments do not imply acceptance of the Delivery.
- 2d- Acceptance of the Delivery takes place when, according to the Principal, as assessed by the Principal at the relevant time, all the requirements as referred to in article 2a have been met. In the event that delivery of certificates, attestations, assembly/erection instructions, maintenance instructions and operating instructions, drawings or other documents, or to provide training and instruction are included in the agreement, acceptance is deemed not to have taken place before delivery and/or the provision thereof have taken place.
- 2e- The Supplier grants the Principal and his client the right to use the Delivery before the acceptance thereof.
- 2f- Approvals, inspections, examinations, the putting into operation or use of the Delivery and acceptance do not release the Supplier of his obligations from the agreement.
- 3- **Price and Payment**
- 3a- Prices are exclusive of VAT, fixed, binding, based on DDP delivery - in accordance with current Incoterms - and including solid and effective packing - suitable for the method of transport - unless otherwise stated in the agreement. Additional or reduced work is only applicable if accepted in writing by the Principal.
- 3b- Payments shall be made within sixty days on receipt and approval by the Principal of the invoice, unless provided otherwise in the agreement. The Principal has the right to offset the claims of the Supplier and companies forming part of the Supplier's group of companies against claims of the Principal and companies forming part of the Principal's group of companies.
- 4- **Delivery time, Place of delivery, Passing of Ownership and Transfer of Risk**
- 4a- Compliance with the agreed delivery period is an essential obligation. In the event of failure to comply with the agreed delivery period, the Principal is entitled, without further notice of default and without judicial intervention, to terminate the agreement in whole or in part, regardless of the Principal's other rights.
- 4b- The Supplier shall keep the Principal informed in writing of the progress and shall immediately inform the Principal in writing of any possible delays, stating the cause and the nature of the circumstances, including any possible cases of force majeure, the measures taken or to be taken and the presumptive duration of the delay, in default of which the Supplier may not invoke these circumstances afterwards. If in the opinion of the Principal the progress is such that the agreed delivery periods are not likely to be met, the Principal may make it obligatory for the Supplier, for its own account, to take measures to accelerate, or the Principal may make replacement purchases or take other measures to limit its damages. The costs thereof shall be for the account of the Supplier.
- 4c- Unless agreed otherwise delivery shall be made during regular working hours at the place agreed upon. Every delivery shall be accompanied by a reliable packing list.
- 4d- In the event that delivery is postponed at the request of the Principal, the Supplier shall store and conserve the goods adequately and sufficiently and keep them for the Principal free of charge for a maximum period of three months.
- 4e- Partial delivery is not allowed unless the Principal has given permission in writing or has ordered it.
- 4f- The ownership of the goods and materials destined to form part of the goods shall pass to the Principal at the time the goods and/or materials have come into the possession of the Supplier directly or indirectly. The time of transfer of the risk shall be regulated in the agreement by means of the use of a trade term in accordance with the applicable Incoterms, unless the goods are assembled/built in by the Supplier or under the supervision of the Supplier at the construction site. In this event the risk is transferred to the Principal after acceptance of the delivery by the Principal.
- 5- **Guarantee to remedy defects**
- 5a- The guarantee period is 24 months and commences upon acceptance of the Delivery by the Principal, or after the putting into use, for other reasons than commissioning and testing, of the Delivery, where the latter of these events is decisive. The guarantee period shall be extended with the period that the Delivery cannot be used during the guarantee period in connection with a defect attributable to the Supplier. The guarantee period shall recommence for the repaired or replaced parts and the parts involved at the moment of putting into use after repair or replacement.
- 5b- Defects in the Delivery occurring in the guarantee period shall be repaired by the Supplier free of charge unless these defects demonstrably cannot be attributed to the Supplier. All costs necessary to remedy the defect, such as but not limited to the costs of building out or building in and transportation costs are for the Supplier's account. In the event that the Supplier, after having been informed of the defect by the Principal, does not remedy the defect within a reasonable period of time, despite a written request to that effect, and in cases of urgency, the Principal has the right to remedy the defect or to have the defect remedied at the risk and the expense of the Supplier.
- 5c- The Supplier grants the Principal the right to directly invoke the guarantee conditions in the agreements between the Supplier and its suppliers and/or contractors regarding - parts of - the Delivery. The Supplier shall include a condition in the agreements referred to, to the effect that the rights from the guarantee conditions also accrue to the Principal and shall deliver a copy thereof to the Principal before acceptance of the Delivery by the Principal.
- 5d- The preceding text of this article and the other provisions of these conditions do not release the Supplier from his guarantee obligations and other liability under the law.
- 6- **Indemnity/liability and insurances**
- 6a- The Supplier is liable to the Client for all damage resulting from actions, omissions and attributable shortcomings in compliance with the agreement, applicable local (safety) rules, standards and legislation by the Supplier, its subcontractors and other auxiliary persons engaged.
- 6b- The Supplier indemnifies the Client against claims from third parties.
- 6c- The Supplier shall have at its disposal a liability insurance sufficiently covering property damage and bodily injury caused by defects in the Delivery, including safety defects within the meaning of the product liability legislation, and/or caused by an act or omission of the Supplier, its suppliers, subcontractors and other auxiliary persons brought in. The policy shall include a condition that the Principal is co-insured under this policy, in which the right of recourse against the Principal is excluded and any payments of claims shall be made directly to the Principal in those cases that the Principal is to be considered an interested party. A certificate of the liability insurance shall immediately be submitted at the request of the Principal. When this certificate is not submitted or when the coverage is not sufficient the Principal shall have the right to take out an insurance at the expense of the Supplier with coverage as included in this article.
- 7- **Ownership of drawings, specifications, etc and Confidentiality**
- 7a- Drawings, specifications, calculations, etc provided by the Principal and/or developed by the Supplier in connection with the agreement shall remain and/or become the property of the Principal and shall be used by the Supplier for no other purpose than for the fulfilment of the agreement. Each copy shall be provided by the Supplier with a mark explicitly showing the ownership of the Principal and insofar as developed by the Supplier be put at the disposal of the Principal in a form designated by the Principal.
- 7b- The Supplier shall handle confidentially all information obtained from the Principal, such as but not limited to the provisions of article 7a, whereof he should realise within reason that this is information of a confidential nature. Handle with confidentiality includes not providing third parties with this information insofar not required for the fulfilment of the agreement and/or to use this information for other purposes than for the fulfilment of the agreement.
- 8- **Materials put at the disposal of the Supplier**
- 8a- All materials to be worked on and processed, put at the disposal of the Supplier by the Principal, shall remain the property of the Principal. Goods newly made after being worked on or processed from the materials put at the disposal of the Supplier shall become the property of the Principal. The materials put at the disposal of the Supplier and/or the newly made goods shall clearly and explicitly be marked by the Supplier as being the property of the Principal. The Supplier is responsible and bears the risk for the aforementioned materials and goods from the moment they are put at the disposal of the Supplier and for the period of time that they, in accordance with the agreement, are supervised by the Supplier and/or by the persons brought in by the Supplier and is therefore responsible for the transport, loading and unloading, sufficient storage, etc. The Supplier ensures sufficient insurance of the materials and goods.
- 8b- The materials put at the disposal of the Supplier are deemed to be supplied in good condition and in accordance with the agreement, both in quantity and in quality, unless the Supplier demonstrates the opposite within five working days after the materials have been received and the Supplier has informed the Principal hereof in writing and has submitted the receipt. All consequences of careless, inefficient and/or uneconomic use of the materials by the Supplier and/or by auxiliary persons brought in by the Supplier shall be at the risk and the expense of the Supplier.
- 9- **Identification of goods, right of access and removal**
- 9a- Goods owned by the Principal pursuant to this agreement and/or these conditions shall clearly, visibly and explicitly be identified by the Supplier, also on the packing, as being the property of the Principal.
- 9b- The Principal at any time has right of access to the location where the goods owned by the Principal are and where required in the Principal's opinion to protect its interests regarding the goods, to remove the goods or to have them removed to a location designated by the Principal.
- 10- **Termination**
- 10a- The Principal has the right to terminate the agreement, wholly or in part, without being liable to pay damages and without prejudicing any of the other rights of the Principal, by means of a written notification to the Supplier to that effect, when the Supplier fails to fulfil its obligations as is imputable to the same, pursuant to the agreement or agreements arising from the agreement, in the event of the Supplier's compulsory liquidation, when the Supplier has been granted suspension of payments, in case of winding up, closing down or any comparable situation of the Supplier's company and in the event that by an alteration in the control over the Supplier's company the Principal's interests, in the Principal's opinion, are not guaranteed sufficiently.
- 10b- The Principal always has the right, besides in the cases referred to in article 10a, to terminate or suspend the agreement wholly or in part. In such a case of termination the Principal and the Supplier shall determine in consultation a reimbursement for the direct costs incurred by the Supplier until the moment of termination.
- 10c- Claims from the Principal against the Supplier are immediately due and immediately payable in full in the case of termination.
- 11- **Assignment of rights and obligations, contracting out and the Netherlands Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act**
- 11a- Assignment of the rights and obligations from the agreement and contracting out of - parts - of the Delivery to third Parties shall only be permitted with the Principal's written permission. The Principal's permission does not prejudice the obligations of the Supplier arising from the agreement.
- 11b- If in the Principal's opinion the Netherlands Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act applies, the Principal's "General Conditions under the Netherlands Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act" and the Principal's "instruction and procedure on invoicing and payment" shall apply to the agreement. In the event that these conditions and instruction have not been received by the Supplier before the conclusion of the agreement, the Supplier shall immediately request the Principal to send these and the Principal shall immediately comply with this request.
- 11c- The Principal has the right to assign the agreement and/or the rights arising therefrom to third parties.
- 12- **Applicable law and Disputes**
- 12a- The agreement and all its preceding negotiations, as but not limited to the Principal's application and the Supplier's offer and all agreements arising from the agreement shall be governed by Netherlands law. The conditions of the United Nations Convention on the International Sale of Goods (CISG) are excluded.
- 12b- All disputes that may arise as a result of the agreement, all prior negotiations, such as the request from the Client and the quotation from the Supplier and all agreements arising from the agreement will be subject to the judgment of the Netherlands Arbitration Institute (NAI) or the competent court in The Hague, where Dutch law applies.