

# GENERAL PURCHASE CONDITIONS OF CONVOI B.V.



## I. GENERAL PART

### 1. General provisions and applicability

**1.1** These general purchase conditions are applicable to all requests, quotations, orders, agreements and the obligations ensuing therefrom pursuant to which the private limited liability company under Dutch law Convoi B.V. and its affiliated subsidiaries and sister companies under Dutch law, hereinafter referred to as "Convoi", procure goods, work, and/or services from a third party, hereinafter referred to as "the Contractor", or entrusts this Contractor with any (other) assignment, in both cases in the widest sense of the term. The term "goods" is understood to mean property and proprietary rights.

**1.2** A departure from these general purchase conditions shall only be possible if Convoi has explicitly accepted this departure in writing.

**1.3** If one of the provisions of these general purchase conditions is wholly or partially null and void or is rendered invalid, the other clauses shall remain in full force. Convoi and the Contractor agree to replace the null and void or defeasible provision with a provision on which they will have agreed, if they had known of the nullity or defeasibility.

**1.4** Other terms and conditions are expressly refused.

### 2. Quotations, orders and the establishment, amendment and cancellation of agreements

**2.1** Requests for a quotation are not binding on Convoi, but are an invitation for an offer to be made. By submitting a quotation, the Contractor undertakes vis-à-vis Convoi to perform the services for a fixed total price, a fixed settlement price or a variation thereof, within the set delivery lead time. The quotation will be valid for at least sixty calendar days. Convoi will not reimburse any of the costs associated with the drawing up of a quotation.

**2.2** If the request for a quotation is incomplete and/or contains obvious errors or inconsistencies, the Contractor must consult with Convoi before submitting an offer. If the order contains obvious errors or any inconsistency, or is incomplete, the Contractor should inform Convoi before commencing performance or delivery.

**2.3** Convoi is not obliged to place the order with the party submitting the lowest price. Convoi is likewise not obliged to provide any information about whether an order has been placed. All information that Convoi has provided to the Contractor should be returned to Convoi free of charge, upon first request, if no agreement is entered into.

**2.4** An agreement only comes into being if and when Convoi accepts a quotation by placing an order in writing.

**2.5** If the Contractor has not yet commenced performance of the agreement, Convoi has the right to dissolve the agreement (or have it dissolved) extra-judicially at any time. In this case Convoi will reimburse the Contractor for the costs it has inescapably incurred, and which are substantiated in writing, provided these are reasonable. Any other compensation is out of the question. If the Contractor makes a start on the work without a written order from Convoi, it does so at its own expense and at its own risk.

### 3. Services rendered

**3.1** The service to be rendered by the Contractor, in addition to meeting the requirements on the grounds of the complementary law, must also meet and/or comply with:

- a. the description and/or specification given by Convoi;
- b. the reasonable expectations Convoi may have as regards (inter alia) the characteristic features, quality and/or reliability by virtue of (inter alia) these conditions and the description in the offer;
- c. the (legal) requirements that may reasonably be imposed from the point of view of safety, health, welfare and the environment;
- d. the requirements and professional skill applicable for the line of business in question;
- e. the time schedule and/or implementation schedule submitted by or (tacitly) approved by Convoi;
- f. the requirement that the materials and raw materials to be used are of the agreed quality and that the tools and equipment used during performance of the activities meet the highest requirements;
- g. the requirement that the persons to be deployed by the Contractor are fit for the duties they are assigned;
- h. the requirement that the services rendered include all the applications for permits that are needed for the agreement to be carried out;
- i. the requirement that the drawing and other preparatory activities and/or development work to be carried out prior to performance of the agreement are included.

**3.2** The Contractor may not submit any (direct) offers or price quotations to Convoi's client. This applies both to extensions of and amendments to the work ordered from Convoi.

**3.3** Delivery takes place on the basis of the agreed INCO terms. If the INCO terms are not expressly agreed, delivery "DDP" (Delivered Duty Paid) is effected at the location indicated by Convoi. The Contractor is obliged to inform Convoi in writing, adequately and in good time, if the delivery period will be exceeded. In the case of partial deliveries, prior written permission from Convoi is required. If Convoi so requires, the Contractor shall be obliged to provide a written production or implementation schedule and/or to cooperate in progress checks. Delivery is only deemed to be complete if and when the assignment has been completed, delivered and officially accepted in its entirety – according to the requirements laid down in the agreement – at the place indicated by Convoi.

### 4. Lead times

**4.1** The agreed lead times relating to (parts of) the services to be rendered by the Contractor are binding. This implies that if and when these periods are exceeded, the Contractor is in default, without any prior notice of default being required.

**4.2** For every calendar day by which the above-mentioned periods are exceeded, the Contractor shall be liable to pay Convoi an immediately payable fine of 0.5% of the agreed total order amount, subject to a maximum of 10% of the total order amount agreed with the Contractor. Convoi additionally reserves the right to compensation of the total damage it has incurred and is yet to incur.

### 5. Changes, additional work, and contract variations resulting in deductions

**5.1** Convoi may at any time require that the scope and nature of the work to be performed, services to be provided and/or goods to be supplied be altered. The Contractor has the obligation to notify Convoi of any necessary changes or improvements, in writing and in good time. The Contractor moreover undertakes to implement the changes that Convoi has requested in, for example, drawings, models, instructions, specifications and activities, without delay, even if no agreement has been reached as to the costs.

**5.2** If, in the Contractor's opinion, the provisions of paragraph 1 have implications for the agreed fixed price, activities and/or lead times, the Contractor shall inform Convoi of this as quickly as possible after the notification, before the change is carried through. A period of eight (8) calendar days at most applies in this case. If Convoi feels that the implications for the price, the activities and/or the lead times are unreasonable, Convoi shall be entitled to dissolve the agreement extra-judicially. This dissolution shall occur by means of a written notification sent to the Contractor, unless this would be unreasonable in view of the circumstances. Dissolution on the grounds of this paragraph does not give either of the parties entitlement to compensation for any damage.

**5.3** A change in the nature and scope of the services that impacts on the agreed price and lead times for performance of the services does not have any effect on the other provisions of the agreement.

### 6. Price

**6.1** The agreed price is fixed and binding. The price can therefore never be increased as a result of changes in exchange rates, purchase prices, freight prices, import or export duties, excise duties, levies, taxes, raw materials or semi-finished goods, wages and other commitments payable by the Contractor to third parties.

**6.2** Unless otherwise agreed, the price is inclusive of:

- a. import duties, excise duties, levies and taxes (with the exception of value added tax);
- b. legal dues and all other levies or costs incurred when permit applications are lodged;
- c. fees for the use of intellectual and industrial property rights;
- d. all costs associated with or stemming from the performance of the agreed services;
- e. the costs of packaging, transport, storage, insurance, premiums, installation and putting into service on site. This also applies to the goods made available by Convoi;
- f. all other costs payable by the Contractor by virtue of the agreement or these general purchase conditions;
- g. everything that is needed for good performance of the agreement, taking into account the applicable standards and provisions and the requirement of good professional expertise, even where one or other of these provisions is not explicitly cited in the agreement.

### 7. Invoicing and payment

**7.1** Unless otherwise agreed, invoices should be submitted to Convoi in duplicate. Invoices should be accompanied by signed confirmation slips or settlement statements.

**7.2** Unless otherwise agreed in writing, the Contractor shall not invoice the amounts payable by Convoi before the date on which the goods are delivered or the date on which the services are accepted by Convoi. If the agreement has been fulfilled completely and correctly, Convoi will pay the invoiced amount within sixty days counting from receipt and approval of the invoice. Payment does not imply acceptance and does not relieve the Contractor of any commitment it may have vis-à-vis Convoi.

**7.3** If the data that the Contractor has to submit to Convoi (periodically) for performance of the agreement and/or the agreed payment securities have not been received, or have not been received in due and correct form, Convoi may suspend the payment of invoices. The same applies if the documents referred to in paragraph 1 are missing or have not been signed.

**7.4** Convoi may set off amounts against amounts that Convoi can claim from the Contractor. This also applies to amounts payable by the Contractor to a legal entity or company affiliated to Convoi.

**7.5** Invoices that Convoi receives later than six months after the date on which the goods were delivered or the date on which provision of the services was accepted by Convoi, shall not be accepted. The Contractor's right to payment of these invoices lapses upon expiry of this period.

**7.6** Before payment is effected, Convoi may, in addition to or instead of transfer of ownership, require a bank guarantee that it deems to be acceptable. The costs of this are borne by the Contractor.

**7.7** The Contractor must in any case make sure that the dated and numbered invoices mention, in a clear and well-ordered fashion, the details listed below. If these are missing, any payment obligation incumbent upon Convoi may be deferred:

- a. Convoi's contract number (purchase number) and the Contractor's contract number relating to the work;
- b. the Contractor's name, address and domicile or registered office;
- c. the work and the site (or sites) at which the work was carried out, to which the invoice relates;
- d. the period and the services rendered to which the invoice relates;
- e. the instalment number;
- f. the name and affiliation number of the administration agency with which the Contractor is affiliated;
- g. the Contractor's payroll tax number;
- h. mention of the "Regulations governing the transfer of the VAT liability", if this is applicable to the agreement. The same goes for the amount of the value added tax;
- i. the Contractor's bank account number;
- j. the wage costs, if applicable;
- k. the time accountability statements endorsed by Convoi.

**7.8** If the Contractor is owed interest by Convoi, the interest payable by Convoi is single interest and is equal to the Euro Interbank Offered Rate (Euribor) plus an increment of 50 basis points. This is the one-month percentage applicable on the invoice due date. Compound interest is not paid.

**7.9** Exceeding of a term of payment or non-payment of an invoice by Convoi shall not give the Contractor the right to terminate or suspend its services.

#### **8. Obligation to provide information, monitoring, approval and permission**

**8.1** The Contractor must immediately inform Convoi in writing of any circumstance that could have an impact on or hinder the fulfilment of the agreement. As a result of this information Convoi has the right, if necessary at the Contractor's expense, to take necessary and reasonable measures and/or to demand a change to the agreement. Convoi may also dissolve the agreement extra-judicially on these grounds. The above also holds true should Convoi suspect a circumstance of this kind on other reasonable grounds.

**8.2** Convoi has the right – though not the obligation – to monitor the way in which the agreement is fulfilled. To this end Convoi may take all possible measures that are reasonable in its opinion. For example, Convoi has the right to demand that written monthly progress reports be produced, to inspect the sites where all or part of the services are being carried out (whether or not accompanied by experts) and/or to have an audit of the Contractor's accounting system carried out.

**8.3** The approval given or permission granted by Convoi, as referred to in these conditions, does not relieve the Contractor of its obligations pursuant to the agreement.

#### **9. Failure**

**9.1** Any failure on the part of the Contractor to perform its obligations gives Convoi the right unilaterally to dissolve the agreement in whole or in part, without formal notice of default being necessary and without any judicial intervention, by means of a written notification sent to the Contractor and/or to suspend payment obligations and/or to assign performance of the agreement wholly or partially to third parties, without Convoi being liable to pay any compensation and without prejudice to any other rights accruing to Convoi, including the latter's right to full compensation.

#### **10. Guarantee**

**10.1** The Contractor must immediately repair any defects in goods delivered, in the work carried out and in the services provided that have appeared before the guarantee period has expired. Unless the Contractor demonstrates that the defects have been caused by incorrect use, the items in which defects have appeared should be replaced or repaired, as Convoi sees fit. In the case of work in which a defect has been revealed, the work must be done again in full at the Contractor's expense. If within the statutory prescriptive period the delivered goods or the result of the work performed wholly or partially come to nought or prove not to be suitable for the purpose for which they were intended, this shall, but for proof to the contrary, be regarded as being the consequence of a defect.

**10.2** If and when defects have been found, the items, parts of items, and the results of work performed and/or services provided in which the defect has appeared shall remain at Convoi's disposal until the cause of the defect has been established. They will be preserved and stored in a manner and at a place determined by Convoi. If they come to nought before the cause of the defect can be ascertained, this shall be at the Contractor's expense and risk.

**10.3** If the Contractor is in default, Convoi has the right, in urgent cases and when the Contractor is unattainable, to carry out the replacement or repair – or have this carried out – at the Contractor's expense, without any request or warning. Whether there is a case of urgency or whether the Contractor is unattainable are matters solely for the judgement of Convoi.

**10.4** As soon as the replacement or repair has been completed and has been accepted by Convoi, a new guarantee period commences for that replacement or that repair.

**10.5** The guarantee period commences the moment the delivered goods, work carried out and/or services performed are accepted by Convoi. If items are intended to be incorporated by Convoi into installations or systems, the guarantee period commences from the moment of completion and acceptance by Convoi of these installations or systems of which they form a part.

**10.6** Unless a different guarantee period has expressly been agreed, the guarantee period is two years or as much longer as the Contractor can stipulate on the grounds of agreements with its subcontractors and suppliers. Convoi's claims on the grounds of hidden defects also hold good after expiry of the guarantee period.

#### **11. Suspension**

**11.1** Convoi may at any time suspend performance of the agreement in full or in part and oblige the Contractor to break off performance of the agreement for the duration of a period to be determined by Convoi. Convoi shall, if expedient, compensate the damage consisting of direct costs actually and demonstrably incurred by the Contractor, provided these are reasonable. This does not apply if the suspension or interruption is attributable to the Contractor. Any other compensation is out of the question.

**11.2** The Contractor is obliged to reduce as far as possible the damage resulting from this suspension or interruption by taking suitable measures.

**11.3** Measures that the Contractor has to take on account of the suspension or interruption are settled with it as settlement of additions and omissions. This does not apply if the suspension or interruption is brought about by any shortcoming on the part of the Contractor.

#### **12. Force majeure**

**12.1** The Parties are not in default and do not have any claim for the reimbursement of costs in respect of each other if and insofar as fulfilment of contractual obligations is delayed, hampered or hindered as a result of force majeure, which is especially, although not exclusively, understood as meaning war (whether or not there has been a declaration of war) or hostilities, revolt or civil disturbances, floods or other natural disasters, nuclear disasters and other similar extraneous catastrophes, strikes and industrial unrest, mutiny, quarantine, epidemics, terrorism, blockades and embargoes, demonstrations, fires, storms and/or other weather conditions, insofar as these circumstances are not attributable to the party in question.

**12.2** Force majeure is expressly understood not to cover strikes or work stoppages (industrial unrest) on the part of employees of the Contractor or strikes or work stoppages and non-performance on the part of suppliers of the Contractor and/or other third parties whose services have been enlisted by the Contractor. Such circumstances are circumstances for which the supplier is responsible and fall under its risk.

**12.3** If Convoi's customer is de facto prevented from fulfilling one or more of its obligations in the agreement with Convoi on the grounds of a circumstance, condition and/or event, Convoi shall be entitled wholly or partially to suspend its performance, in particular fulfilment of its obligations vis-à-vis the supplier.

**12.4** The Parties will notify each other as quickly as possible of a (possible) situation of force majeure.

**12.5** The Parties may adjourn the obligations stemming from the agreement for the duration of the period during which the force majeure lasts. If this period is longer than three (3) months, each of the parties shall be entitled to dissolve the agreement, without any obligation to pay the other party damages.

#### **13. Termination of the agreement**

**13.1** Without prejudice to the provisions laid down elsewhere concerning termination (before expiry), Convoi may immediately terminate the agreement extra-judicially (without any other formal notice of default being necessary) in the following cases:

**a.** If the Contractor or the party that has stood surety for or provided a guarantee for the Contractor's obligations, applies for a temporary suspension of payment. The same applies if the Contractor is adjudicated bankrupt, goes into voluntary or involuntary winding up, discontinues its operations, takes a resolution for winding-up cessation, or files a bankruptcy petition or applies for a moratorium;

**b.** If there are changes concerning the Contractor's shareholders, insofar as in Convoi's opinion this implies an appreciable aggravation of risks;

**c.** If attachment orders are placed to the account of the Contractor, or if the Contractor's capital assets are threatened with seizure or other judicial measures.

**13.2** Aside from the cases specifically mentioned in the agreement, Convoi may dissolve the agreement extra-judicially before its expiry date against payment of all the services already rendered by the Contractor and accepted by Convoi, plus a reasonable compensation. This compensation amounts to a maximum of 10% of the remaining agreed price, for damages and costs that the Contractor incurs as a result of non-fulfilment of the agreement. This always applies to a maximum of the value of the order/contract sum plus or minus any contract variations. Convoi shall give the reasons for such an extra-judicial dissolution.

#### **14. Intellectual and industrial property rights, rights to drawings, etc.**

**14.1** The Contractor guarantees that the provision and normal utilisation of the services rendered in the broadest sense shall not infringe any patent rights, copyright, trademark rights or any other absolute right held by any third party. The Contractor will safeguard Convoi and hold it entirely harmless against any and all claims in this respect and will bear the costs of defence against said claims.

**14.2** All drawings, specifications, requisites, calculations and other documents or other data carriers and software (including copies) made or used by Convoi or the Contractor are or become the property of Convoi the moment they are made. To this end they are immediately individualised and provided with clear distinguishing marks and/or are furnished to Convoi free of charge upon first request. The Contractor is responsible for ensuring that the services rendered (goods, services and resources) do not infringe any third-party intellectual property rights. The Contractor shall protect Convoi against all third-party claims based on any (alleged) infringement of such rights and shall compensate Convoi for any damage incurred as result thereof.

**14.3** Any intellectual property rights to a service or activity specially developed by the Contractor for Convoi accrue to Convoi or will be transferred by the supplier to Convoi at Convoi's first request. This also relates to intellectual property rights as referred to in Article 14.2.

**14.4** If the transfer referred to in paragraph 3 is not (yet) possible according to the law, or if the service or activity is not or will not be developed specially for Convoi, the Contractor grants Convoi a worldwide, exclusive and non-cancellable licence with right to sublicensing to any intellectual property rights relating to the service or activity. The fee for this licence is included in the price of the service or activity. If it so wishes, Convoi may register the licence, or have it registered, in the registers intended for this purpose, a process in which the Contractor will provide the necessary cooperation. If a deed is required or proves to be advisable for the transfer of intellectual property rights or the granting of a licence, the Contractor will unreservedly provide its cooperation for the execution of such a deed.

**14.5** The Contractor shall immediately inform Convoi if third parties infringe (or threaten to infringe) Convoi's intellectual property rights.

**14.6** The Contractor should return all items and documents mentioned in paragraph 2 at Convoi's first request, completely free of charge and organised on a per-order basis, within two weeks of receipt of the request.

#### **15. Confidentiality**

**15.1** The Contractor will keep secret, treat with confidentiality, and refrain from disclosing the existence and content of the request for a quotation, the offer and/or

the agreement, and shall only use said information for the purposes of carrying out Convoi's order(s). The same applies to all know-how, data, information, drawings and such like which are furnished in any form whatsoever to the Contractor or are made by the Contractor in the framework of its fulfilment of the agreement. The Contractor shall oblige the third parties it has involved in performance of the agreement to commit to the same duty of confidentiality in writing, and shall have them sign the statements of confidentiality submitted by Convoi. All information referred to in this article should be returned to Convoi immediately, in full and free of charge, at first request.

**15.2** The Contractor is not allowed to publicise or advertise performance of the agreement in any way whatsoever without Convoi's prior written consent. The same applies to know-how, data, information, drawings and such like, in any form whatsoever. None of this may be used or copied (or allowed to be copied) for any purpose other than for fulfilment of Convoi's order(s), or for maintaining direct or indirect contact with Convoi's client(s).

#### **16. Renunciation of rights**

**16.1** A delay or omission in demanding the strict observance of contractual or non-contractual obligations or in exercising any right, shall not in any way affect the possibility for Convoi of still exercising its rights, unless Convoi has expressly renounced its right in writing.

#### **17. Transfer, third parties**

**17.1** The Contractor may not transfer or pledge the agreement or rights and obligations arising therefrom to third parties, or entrust performance thereof to third parties, without Convoi's express prior written permission. Convoi is entitled to make its permission subject to conditions.

**17.2** In urgent cases Convoi may request that the Contractor contract out performance of the agreement, wholly or in part, to third parties, at its own cost and risk. The same applies if, after consultation with the Contractor, it must reasonably be assumed that the latter will not (or not be able to) fulfil its obligations pursuant to the agreement (on time) or in a proper fashion. In none of these cases is the Contractor relieved of its obligations by virtue of the agreement.

**17.3** The Contractor represents subcontractors and/or third parties whose services have been enlisted as if their acts and omissions were its own. The Contractor guarantees that subcontractors and third parties abide by these general purchase conditions, and observe all other provisions and clauses that Convoi has stated to be applicable to the activity or service in question. The Contractor guarantees that Convoi is also able to exercise its authority in respect of the activity or service vis-à-vis these subcontractors and third parties.

#### **18. Liability**

**18.1** Except for the provisos enumerated in these general purchase conditions, Convoi is not obliged to pay any compensation for damage of any kind whatsoever, be it direct or indirect, including loss of profits, damage to movable and/or immovable property, or to people, either working for the Contractor or for third parties. In any case, Convoi shall not be liable for consequential loss.

**18.2** The Contractor shall be liable for and will protect Convoi against any claim for damages that is directly or indirectly the result of non-fulfilment, untimely fulfilment or inadequate fulfilment of the agreement or infringement of any other contractual or non-contractual obligation, that is brought against Convoi or third parties.

**18.3** For the application of this article, the term "third persons" is understood also as meaning staff of Convoi, or third parties, or staff thereof directly or indirectly called in by Convoi.

#### **19. Insurance**

**19.1** The Contractor is obliged, at its own cost, to take out and to maintain adequate insurance to cover its liability, in the broadest sense of the term, vis-à-vis Convoi and third parties. This includes inter alia professional liability, product liability and legal (risk) liability. The Contractor must present the policy in question for inspection upon Convoi's request. Convoi does not have any investigative duty in this regard.

**19.2** Convoi has the right to request that in the insurance policy/policies, Convoi be mentioned as co-insured, client and as beneficiary under a simultaneous relinquishment by the insurers of the right of recourse, and also that the insurers be entitled directly to indemnify Convoi and/or third parties to be designated by it. At Convoi's request, the Contractor shall be obliged to submit the insurance policy/policies and proof that the insurance premiums have been paid.

#### **20. Applicable law, competent court**

**20.1** Dutch law is applicable to these general purchase conditions, as it also is to the agreement(s) concluded with the Contractor. Applicability of the 1980 Vienna Convention on Contracts for the International Sale of Goods (CISG) is excluded.

**20.2** All disputes (including disputes that are only regarded as such by one of the parties) that may come into being between the parties as a result of this agreement or agreements stemming therefrom, shall be settled by the competent court in Maastricht, on the understanding that Convoi has the right to bring claims or legal actions against the Contractor, whether at the same time or not, before other courts of justice or judicial bodies that are competent, on the grounds of national or international legal rules, to take cognisance of such actions.

#### **21. Corporate Social Responsibility**

**21.1** The Contractor guarantees that it will comply with all applicable legislation and regulations in the field of the environment, employee welfare and the protection of children. The Contractor moreover guarantees that it shall not be guilty of any form of discrimination and/or corruption.

#### **22. Language**

**22.1** The Contractor hereby states that its knowledge of Dutch is sufficient to enable it to understand the agreement, its terms and conditions and annexes completely, and that all future documents, drawings and correspondence will be drawn up in Dutch. Other languages will only be used if this is required by authorities authorised to this end and/or to the extent that an express stipulation to the contrary is included elsewhere in the agreement.

**22.2** These general purchase conditions were originally drawn up in Dutch. In the event of any lack of clarity, and/or difference of interpretation and/or difference in connotation, the Dutch version of the text shall at all times take precedence.

## **II. SPECIAL PROVISIONS RELATING TO THE DELIVERY OF GOODS**

As well as the General Part (I), this chapter (II) is also applicable to the delivery of goods.

#### **23. Quality and description of the goods to be delivered**

**23.1** The goods to be delivered must:

- a.** be in conformity with the provisions of the agreement as regards amount, description and quality;
- b.** in all respects conform to and comply with the specifications stated as being applicable;
- c.** be accompanied by the necessary instructions for Convoi or its staff, so that they can make use of the delivery on their own;
- d.** be made of reliable, new materials and be of good design;
- e.** be suited to the purpose for which they are intended;
- f.** be made of parts and raw materials the origin of which can be traced;
- g.** not contain any asbestos or other carcinogens, or in any other way constitute a health hazard;
- h.** be accompanied by the required documents, such as packing lists, (guarantee or quality) certificates, attestations, drawings, instruction manuals, spare parts lists and maintenance instructions;
- i.** comply with all applicable statutory requirements, regulations and European directives (such as the CE and EMC marking) as regards design, composition and quality;
- j.** bear a type number, serial number and appliance number and an indication of the country of origin in the form of a proper identifying mark affixed by the manufacturer or importer. If this is not possible, the packaging of the delivery will bear such markings;
- k.** be accompanied by invoices in duplicate made out to Convoi, which, in addition to the date, invoice number and order number, will also mention the name of the manufacturer and importer, and the type number, serial number and appliance number.

#### **24. Inspection and testing**

**24.1** Convoi is entitled, as is its client, to test and check the production or assembly of the agreed delivery, or to have this checking and testing carried out, at any location whatsoever. Convoi also has the right to inspect or test semi-manufactured products and finished products, or to have these inspections or tests carried out, before the delivery time. Inspection or testing does not mean that the Contractor no longer has to provide a guarantee or is no longer liable. The other obligations arising from the agreement also remain in force.

**24.2** The costs relating to the inspection and testing are payable by the Contractor.

**24.3** If the delivered goods are rejected, Convoi will notify the Contractor of this immediately. The Contractor will then immediately repair or replace the delivered goods, as Convoi chooses.

#### **25. Packaging, transport, storage, installation**

**25.1** The Contractor is responsible for ensuring that the delivered goods are supplied in proper packaging that is as environmentally safe as possible;

**25.2** The Contractor is responsible for the removal or processing, at its own expense, of packaging, refuse, waste and surplus material, provided this comes from or pertains to the delivery of goods or performance of work that falls under the agreement. In so doing, the Contractor shall abide by the legislation and regulations in force at the time of removal and/or processing.

**25.3** The costs of packaging, transport, storage, insurance and installation of goods, including goods made available by Convoi, are payable by the Contractor. Insofar as Convoi has incurred these costs, the Contractor shall reimburse Convoi directly for them.

**25.4** If the goods are ready for delivery but Convoi is not reasonably in a position to take receipt of them at the agreed time, the Contractor shall keep the delivery in its possession, duly set aside and recognisable as being intended for Convoi. The Contractor should safeguard the delivery and take all necessary measures to avoid any deterioration of quality, until such a time as the goods are delivered. Convoi will reimburse the Contractor for the costs reasonably and demonstrably incurred.

#### **26. Transfer of ownership and risk**

**26.1** The risk associated with the goods to be delivered is only transferred from the Contractor to Convoi upon delivery. The ownership of goods to be made or to be delivered passes to Convoi at the time of (actual) delivery. If Convoi makes down payments, ownership of the goods is transferred at the moment of manufacture. The Contractor will use unique identifying marks to identify the goods as being goods belonging to Convoi. The Contractor guarantees that full and unencumbered ownership is transferred.

**26.2** Goods that Convoi hands over to the Contractor for repair, processing or machining, are for the Contractor's risk during the period of this repair, processing or machining. The Contractor waives its rights of retention over these goods in favour of Convoi.

#### **27. Liability of and protection by the Contractor**

**27.1** The Contractor is liable for the reimbursement of all costs and damages – including bodily injury and pecuniary loss – that are caused by a defect in the delivered goods and/or the equipment or material used in job performance. This also applies to damage or costs occasioned by any careless action on the part of the Contractor, its subordinates or third parties whose services it has enlisted in performance of the agreement.

**27.2** The Contractor should fully protect Convoi and/or its client against the liability referred to in paragraph 1.

### III. PROVISIONS FOR THE DELIVERY OF SERVICES, FULFILMENT OF ORDERS AND CONTRACTING OF WORK

As well as the General Part (I), chapter II is also applicable to the delivery of services, fulfilment of orders and contracting of work.

#### 28. Provision of data

**28.1** If and insofar as is required or applicable, the Contractor shall hand over the following documents to Convoi when it makes the quotation and/or immediately after receipt of the agreement:

- a. a current extract from the register of the Chamber of Commerce – no more than three months old;
- b. a photocopy of the G-account agreement;
- c. a photocopy of a valid certificate of registration with an industrial insurance board;
- d. a recent registration in the Special Register of the Association for the Registration of Subcontractors, if applicable;
- e. a recent registration in the register of the Financial Supervisory Board, if applicable;
- f. a statement with regard to payment performance, payroll taxes and social security premiums (premiums for employed persons insurance schemes, national insurance premiums, income-related contribution for health insurance and wages and salaries tax) from the Tax Authorities – no more than three months old;
- g. a photocopy of the applicable ISO and VCA certificate;
- h. a declaration of independent contractor status ('verklaring arbeidsrelatie').

**28.2** The statements mentioned in points e), f) and h) must be handed over to Convoi, without any request or reminder being required, as quickly as possible after the end of every quarterly period.

**28.3** Any change in the data referred to under a) to h) in Article 28 para. 1 should be reported to Convoi immediately in writing.

#### 29. Implementation schedule

**29.1** At Convoi's request the Contractor must submit an implementation schedule. This contains inter alia the times of commencement and completion of the successive parts of the activities and the staffing level. If it has been agreed that Convoi is to bring equipment into service, the times at which this equipment is brought into operation will also be stated in the implementation schedule. Once it has been approved by Convoi, the implementation schedule forms part of the agreement.

**29.2** Convoi has the right to make changes to the implementation schedule during performance of the agreement. The consequences of changes will be settled by Convoi and the Contractor according to reasonableness. The agreement will be modified if necessary.

**29.3** The Contractor should report periodically on the progress of the work and any aspects connected with it, as and when Convoi wishes.

#### 30. Personnel working for the Contractor

**30.1** The Contractor is obliged to report its employees to Convoi. The requisite details are: surname, first name(s), address, date and place of birth, nationality, tax registration number, number and nature of the identification document. In addition, a copy of the proof of identity and (if applicable) the residence permit and work permit should be furnished.

**30.2** The Contractor is responsible for the daily management and supervision of performance of the work. The number of qualified and competent supervisors that the Contractor makes available to this end should be in keeping with the scope and nature of the activities and the requirements that Convoi has laid down. Supervisors should have a thorough command of Dutch, except where an agreement has been made to the contrary.

**30.3** The Contractor is responsible for ensuring that the services to be provided by the employees are performed professionally, competently and without interruption. The employees meet and shall continue to meet the agreed quality levels as regards training, expertise and experience.

**30.4** The Contractor provides employees with tradesman's tools and personal safety equipment.

**30.5** The Contractor shall replace employees only occasionally on a temporary or definitive basis and only after Convoi's prior approval. Convoi will not withhold its permission on unreasonable grounds. Convoi may make its permission subject to conditions. If and when employees are replaced, the provisions of paragraph 1 apply.

**30.6** Convoi and the Contractor may agree on a trial period for employees. If during the trial period it transpires that employees are not doing the work to Convoi's satisfaction, the Contractor will have to replace these employees immediately. No extra costs may be charged to Convoi on this account.

**30.7** If employees prove not to have the necessary qualifications or expertise, the Contractor will have to replace these employees immediately, at Convoi's first request, with employees who do meet the stipulated requirements. The same applies in the case of employees who do not abide by the rules in force or are guilty of any other form of misconduct. No costs may be charged to Convoi for the replacement of employees.

**30.8** The work is carried out in accordance with the working hours and rules of conduct in force at Convoi at the time. The Contractor must instruct the employees to observe this.

**30.9** Extra costs that are occasioned because work has to be done outside normal working hours in order to make it possible for the lead time for completion stated in the agreement to be met, are payable by the Contractor. In the event of force majeure, the extra costs involved in taking measures shall be payable by Convoi. Measures must be agreed on beforehand.

**30.10** Convoi is authorised to take a count of the employees on the site at regular intervals. The Contractor should provide cooperation in this task. The Contractor must also provide all cooperation in respect of (other) reasonable administrative arrangements made - or yet to be made - by Convoi for the monitoring of the staffing level on the site or for the activities. Thus, for example, the Contractor may be asked to provide a daily overview of the personnel planning on the work site, broken down

according to the work in progress at the Contractor's premises. Convoi may also ask the Contractor to provide time accountability sheets per employee, endorsed by Convoi.

#### 31. Safety, health, welfare and the environment

**31.1** The Contractor is responsible for welfare, safety and health and good environmental conditions on the site. The Contractor must observe all applicable statutory regulations, standards and the safety and environmental regulations in force at local level.

**31.2** The materials, equipment and tools used by the Contractor (such as hoisting gear and lifting devices, and ladders and scaffolding) must at least comply with the statutory requirements and be in a perfect state of repair. This is also to be assessed by Convoi and shall be subject to Convoi's rules and/or those of its client.

**31.3** Employees who, in Convoi's judgement, are guilty of unsafe conduct on the site, must be removed from the site on first request. The Contractor must see to it that these employees are immediately replaced, without any costs being charged to Convoi on this account.

**31.4** If and when an unsafe situation caused by the Contractor is observed, Convoi has the right to have the work brought to a standstill. In so doing Convoi is not obliged to pay any compensation, and a stoppage of this kind shall never be regarded as a case of force majeure.

#### 32. Intervention in the work

**32.1** If, in Convoi's judgement, the work is progressing in such a way that the established lead time for completion of the services, or a part thereof, will be exceeded, Convoi will notify the Contractor of this in writing. The same applies if, in Convoi's judgement, the work has not been or is not being carried out in accordance with the provisions of the agreement and/or in line with the requirements of good workmanship.

**32.2** Within two weeks of receipt of a notification as referred to in paragraph 1, the Contractor should take measures to ensure that, in Convoi's judgement, the arrears will be made good or the above-mentioned provisions and requirements will be met, within a short space of time. Should this not happen, Convoi may take all measures that it deems necessary, without recourse to judicial intervention. For example Convoi, or third parties acting under its authority, may take over the work from the Contractor. If this occurs the Contractor will provide Convoi and these third parties with all the cooperation they may want or need.

**32.3** All external and internal costs that Convoi will have to incur in relation to the circumstances referred to in paragraph 2 shall be payable by the Contractor. The latter shall immediately reimburse Convoi for the costs, including a fee for supervision and overheads.

**32.4** Additionally, aside from the circumstances referred to in paragraph 1, Convoi may immediately intervene in the activities if this is necessary in view of operating conditions, safety and/or statutory regulations. This does not discharge the Contractor of its liability. Convoi will always notify the Contractor of such an intervention as quickly as possible.

#### 33. Delivery, acceptance, putting into use, risk

**33.1** Except where stipulated to the contrary in the agreement, it is assumed that the delivery or acceptance has taken place if Convoi has accepted the work performed in writing.

**33.2** Convoi is entitled to put the work or a part thereof into use, or have it put into use, before it is completed. The work, or the part, is not considered as having been delivered or accepted on account of it having been put into use. If the commissioning results in more being required of the Contractor than can reasonably be demanded, the consequences of this will be settled by the parties in accordance with reasonableness. The Contractor continues to bear the risk associated with the work until delivery. Therefore, if the work is lost or damaged, the Contractor must provide for its replacement or repair.

**33.3** The risk associated with the goods to be delivered only passes from the Contractor to Convoi when the work of which the delivery forms a part is delivered for acceptance. Ownership of the goods is transferred to Convoi at the time of (actual) delivery. If Convoi makes down payments, ownership of the goods is transferred at the time of manufacture. The Contractor will then immediately identify the goods as Convoi goods. The Contractor guarantees that the full and unencumbered ownership is transferred.

**33.4** Goods that Convoi hands over to the Contractor for repair, processing or machining are for the Contractor's risk for the period during which this repair, processing or machining lasts. The Contractor waives its right of retention in respect of these goods in favour of Convoi.

#### 34. Transfer of rights and obligations and contracting out

**34.1** Without Convoi's written permission, the Contractor may not transfer or pledge the agreement, any part thereof or rights or claims arising from the agreement, or in any other way transfer title thereto, to third parties. Likewise the Contractor may not have any work carried out by third parties without Convoi's consent.

**34.2** Without Convoi's written permission, the Contractor shall not (a) contract out the agreement or any part thereof, or (b) call in third parties for the purpose. An exception to this rule is that part of an agreement for which outsourcing or the deployment of third parties is stated in the agreement or the specification. Third parties are taken to encompass inter alia "sole traders", managing directors and majority shareholders, subcontractors and temporary employment agencies. If Convoi has given its written consent, the Contractor will include the same risk-limitation measures in its agreement with the third party/parties as are included in the general purchase conditions and the building contract with Convoi.

**34.3** Without Convoi's written permission, the Contractor shall not hire any personnel on loan from third parties.

**34.4** The permission referred to in paragraphs 1, 2 and 3 does not imply that any obligation stemming from this agreement lapses.

### **35. Materials, equipment, parts, attestations, drawings and other such items made available by Convoi**

**35.1** Materials, equipment, parts, attestations, drawings and other such items that Convoi places at the Contractor's disposal for performance of the agreement remain Convoi's property. They must therefore be given distinguishing marks and be identified in such a way that they can be recognised as such by third parties. After the agreement has been executed, they should be returned in a good state of repair.

**35.2** Until the items referred to in paragraph 1 have been returned to Convoi, it is the Contractor who assumes the risk for them. The Contractor is obliged to ensure the proper maintenance of these items.

**35.3** The Contractor will insure all items it receives from Convoi in relation to the agreement, at its own expense and under the usual conditions, against risks of total or partial loss or damage as a result of fire, theft and destruction.

**35.4** When it receives the items referred to in this article, the Contractor must check whether these tally with the specifications. The items must also bear clear identifying marks showing that they are the property of Convoi. Unless the Contractor has filed a written report in this respect within seven days of receipt of the items, Convoi shall assume that the items mentioned in this article are in a good state of repair and have been placed at the Contractor's disposal in accordance with the required specifications.

### **36. Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act**

**36.1** The Contractor should comply with the statutory obligations for the deduction of the payroll tax and social security premiums of its employees, as described in Article 28 para. 1f.

**36.2** The Contractor shall protect Convoi against any claim from the Tax Authorities in respect of payroll tax and social security premiums payable for its employees. This also includes interest, fines and costs, and expenses for legal aid with a view to contesting a possible declaration of liability.

**36.3** Without detracting from paragraphs 1 and 2, the Contractor shall keep an accounting system which is designed in such a way as to enable the payroll total to be ascertained per project. Convoi shall at all times have the right to check these accounting records. The Contractor shall state the actual wage costs on each invoice.

**36.4** Convoi may pay the Contractor the payroll tax and social security premiums pertaining to the work, for which it is jointly and severally liable on the grounds of the Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act, by transferring this to the latter's blocked account within the meaning of the Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act (the G-account). Convoi may also transfer the payroll tax and social security premiums directly to the Tax Authorities. In this latter case, Convoi consequently no longer has any payment obligation in respect of payroll tax and social security premiums vis-à-vis the Contractor.

**36.5** Unless agreed otherwise, for the payroll tax and social security premiums payable, Convoi will transfer an applicable percentage of the wage component (and if this is unknown, 50%) directly. The amount is paid into the account of the relevant office of the tax authorities or into the Contractor's G-account.

**36.6** Convoi may change this percentage if it is found that the agreed percentage does not correspond to the payroll tax and social security premiums actually payable by the Contractor.

**36.7** A direct payment or a G-payment counts as a payment with discharge.

**36.8** If the "regulations governing the transfer of the VAT liability" are applicable to the agreement, the Contractor will mention this on every invoice.

## **IV. SPECIAL PROVISIONS GOVERNING THE PLACING OF WORKERS AT A PARTY'S DISPOSAL**

As well as the General Part (I), the Special Provisions of chapter (III) and this chapter (IV) are applicable to the placing of workers at a party's disposal.

### **37. Permit**

**37.1** Insofar as is necessary, the Contractor must have a permit for placing workers at another party's disposal.

**37.2** Employees who are deployed are obliged to have a valid identification document and (if applicable) a valid work and residence permit with them.

### **38. Personal safety equipment and tradesman's tools**

**38.1** The Contractor must equip employees with safety glasses and shoes, and provide them with tradesman's tools.

**38.2** If necessary Convoi will provide the employees with a safety helmet and work clothes bearing the Convoi logo. The Contractor must see to it that the employees also actually wear this protective gear.

**38.3** The protective gear referred to in para. 2 should be handed in to a Convoi staff member designated to this end, within a week of the work having been finished. For every set of protective gear not handed in, deposit money will be deducted from the Contractor's final invoice.

### **39. Time accountability**

**39.1** The Contractor is obliged to give all cooperation in respect of (other) reasonable administrative arrangements made or yet to be made by Convoi with relation to the monitoring of the staffing level at the site or activities endorsed by Convoi, such as time accountability sheets per employee.

### **40. Invoicing and payment**

**40.1** Invoices should comply with the 1968 Turnover Tax Act. The Contractor should in any case mention the following details, in a clear and orderly manner, on the dated and numbered invoices:

- a.** Convoi's purchase number and the Contractor's purchase number relating to the work;
- b.** the work and the place(s) at which the work was carried out, to which the invoice relates;

**c.** the period and the services rendered to which the invoice relates;

**d.** the wage costs;

**e.** the time accountability sheets endorsed by Convoi.

**40.2** When staff are hired in on loan, the Contractor must protect Convoi against any claim by the Tax Authorities for VAT payable.

**40.3** When loan personnel are hired in, the entire VAT amount invoiced can be paid directly into the account of the tax office in question or into the Contractor's G-account.

**40.4** A direct payment or G-payment counts as payment with discharge.

### **41. Termination of the agreement/notice given to staff**

**41.1** Convoi may prematurely terminate the agreement for workers to be made available. In the case of normal termination, Convoi shall give the Contractor notification of this at least three working days in advance.

## **V. RENTAL OF ITEMS**

**42.1** If the agreement concluded with the Contractor covers or also includes the hiring out to Convoi and/or the placing at Convoi's disposal of items by the supplier, the following shall be applicable in addition to the other provisions of these general purchase conditions.

**42.2** As a lessee, Convoi undertakes to use the items rented from the supplier as a good lessee and in so doing will avail itself of the directions for use and/or instructions used by the supplier as the lessor, provided the supplier places these at Convoi's disposal.

**42.3** The items (rented out) should be fully in conformity with the agreed specifications, including, but not limited to, all drawings, designs, calculations, models, prototypes and other documents.

**42.4** The items should be of good quality, in good operating order, well maintained and in a good state of repair, free of defects, and suitable for the use for which they are intended.

**42.5** The items should be in total conformity with all requirements relating to health, safety and the environment, and should comply in full with the required standards and applicable regulations.

**42.6** The items should be delivered together with all documents and manuals pertaining to them, including, but not limited to, all instructions concerning use, and health, safety and the environment.

**42.7** Unless expressly agreed otherwise, the items will be delivered "DDP" (Delivered Duty Paid) at the place indicated in the agreement or - if no such place has been designated - at Convoi's premises or site, according to Convoi's choice.

**42.8** The risk associated with the (rented) items shall remain at all times assumed by the supplier.

**42.9** The supplier shall ensure (and is entirely responsible for seeing to it) that the (rented) items fully comply with the requirements stated in sections 42.3 to 42.5 of this article, for the entire duration of the contract period. Insofar as is necessary during the contract period, the supplier shall take care, at its own expense, of the repair and maintenance of the items and/or replacement thereof. In the event of defects in, damage to, or loss or theft of the (rented) items, the supplier shall immediately proceed with the repair or replacement of the items.

The loss of working hours that this causes Convoi shall be charged to the supplier. Any loss or damage incurred by the supplier or third parties shall be at the supplier's expense and risk. The supplier shall protect Convoi against any claims from third parties in this respect.

**42.10** All damage to (rented) items originating during or (possibly) after the rental period shall be payable by the supplier. Any own risk in the bodywork insurance taken out by the supplier on all-risks conditions shall remain payable by the supplier. Convoi counts as a co-insured party in this policy.

**42.11** The supplier shall be liable for all damage caused to Convoi, Convoi's subordinates and/or third parties by and/or with the (rented) items (irrespective of whether the latter are manned or motorised).

**42.12** The supplier shall take out companies' and professions' liability insurance for the benefit of Convoi and other users of the (rented) items, which provides covers for the financial consequences of the occurrences listed below:

- the case of persons being killed, suffering physical or psychological injury or in any other way suffering damage to their health;
- the case of material damage or loss of property as a result of which third parties sustain an impairment to their assets caused with or by (rented) items;
- items that are located on or in, or fall off or have fallen off (rented) items;
- items that are coupled with (rented) items or after coupling therewith have become or been detached therefrom and have not yet safely come to a standstill outside the traffic.

**42.13** The insured amount will be at least € 5,000,000.00 per occurrence.

**42.14** If the (rented) items concern vehicles or motor vehicles for which insurance is compulsory in accordance with the Motor Insurance Liability Act (WAM), this insurance should, in addition to the requirements laid down in 42.12 and 42.13 of this article, also meet the requirements laid down by or pursuant to the WAM.

**42.15** The supplier shall submit a copy of the policy at Convoi's request.

**42.16** The supplier shall not charge any expenses and/or compensation if and when Convoi cancels the rental agreement.

**42.17** The supplier shall allow Convoi to sub-lease items and also to use them and put them into service outside the Netherlands.

**42.18** At the end of the contract period or immediately upon termination of the assignment / rental agreement, if this is earlier, the supplier must immediately collect the items, at its own expense, at the place where they are at that time, or on any other place that Convoi may designate.

Lodged at the clerk of the court's office at the court in Maastricht on November 17<sup>th</sup> 2011 under number 13/2011 AL.