

## General conditions of purchase

### 1 Definitions

1.1 In these General Conditions of purchase, hereinafter to be referred to as “Conditions”:

“We”/”us”: means: Poortershaven Industriële Mineralen B.V., its legal successors and any companies related to Poortershaven Industriële Mineralen B.V. and their legal successors.

“Supplier”: means: every person or corporation with whom we negotiate the making of a Contract of Sale and with whom we make such Contract.

“Contract”: means: every Contract of Sale which is made between the Supplier and us, each and every change or addition made to any such Contract, as well as all (legal) acts performed for the purposes of preparing and carrying out any such Contract.

### 2 Scope of application

2.1 These Conditions are part of all Contracts and shall apply to all (legal) acts incidental thereto performed by the Supplier and by us.

2.2 We expressly exclude applicability of any general or specific conditions or terms of the Supplier.

### 3 Conclusion of a Contract

A request for a quotation shall not bind us and serves only as an invitation to the Supplier to submit an offer. Only after our written order a contract with the Supplier is concluded.

### 4 Amendments

Changes or additions to any of the provisions of these Conditions or a Contract shall be valid only if recorded by us in writing and shall apply only to the individual Contract concerned.

## 5 Prices

- 5.1 The agreed prices shall be fixed prices and shall be expressed in the agreed currency, excluding VAT. The agreed prices shall not include all export duties, import duties and excise duties as well as all other charges or taxes imposed or levied in respect of the products. The additional expenses incidental to the performance of the Contract, including documentation, packaging and loading the goods for transport are included in the price. Freight is expressly excluded. The proceeding can only be amended by agreement in writing thereto or follow from an in writing agreed delivery term which term implies otherwise.
- 5.2 The prices are based on the prices current at the time of the Supplier's offer. Price changes after the date of the offer are for the account of the Supplier.

## 6 Delivery and time of delivery

- 6.1 To the extent that the parties have agreed to terms of delivery which are customary in trading, such as franco, FOB, CIF and C&F, the most recent version of the Incoterms of the International Chamber of Commerce in Paris shall be applicable thereto, unless expressly agreed otherwise.
- 6.2 Delivery shall take place according to the agreed delivery term at the address stated by us. If no delivery term is agreed, delivery shall be ex works.
- 6.3 The Supplier shall add to any shipping to be delivered a packing list, which clearly indicates the nature and quantity of the goods packaged. The Supplier shall also add a consignment note including corresponding delivery and/or order numbers.
- 6.4 The Supplier shall for his own account and risk accurately observe the requirements set by us with respect to packaging and/or security. The packaging shall at any rate meet the statutory requirements concerned. The Supplier shall also observe all instructions given by us with respect to preservation, marking, and despatch, insurance of risk as well as to transport documentation.
- 6.5 Agreed times of delivery shall be absolute deadlines. If such time of delivery is exceeded we shall have the right to dissolve the Contract and the Supplier shall be under the obligation to compensate the loss we sustained, without prejudice to our other rights.
- 6.6 We shall be entitled to change the address of delivery and the time of delivery at all times. In that event we will compensate the (additional) related costs reasonably made by the Supplier, on the condition that the Supplier has submitted a specification of such costs to us for our prior approval. In the event of change of time of delivery the Supplier shall keep and secure the goods sold in proper packaging and clearly identifiable as being our property and take all required measures to prevent reduction of quality, such until the time of actual delivery of the goods.

6.7 At the date on which the Supplier knows or should know that he either cannot, cannot timely or cannot properly perform his obligations under the Contract he shall immediately notify us thereof in writing and state the circumstances which form the basis of such non-performance, without prejudice to the provisions of article 12 of these Conditions.

#### 7 Inspection upon delivery and acceptance

7.1 The goods delivered shall be accepted subject to approval, if on the face of it the goods meet the agreed requirements.

7.2 If at the time of delivery it turns out that the goods do not or do not fully meet the agreed requirements, we shall notify the Supplier in writing that the goods will not be accepted.

7.3 Acceptance as defined in paragraph 1 of this article does not exclude invoking non-performance on account of defects at a later stage.

#### 8 Transfer of title and risk

8.1 Upon acceptance of the goods sold, the title to the goods and risk thereof shall be transferred to us, unless the explicitly agreed term of delivery implies otherwise.

8.2 If prepayment (otherwise than per documentary credit) is agreed in respect of the amount due by us by Contract, all materials, raw materials and semi-manufactures which the Supplier uses or designates to perform the Contract as well as all goods (in process) shall become our property at the time when the prepayment is made. To the extent necessary the Supplier hereby agrees to transfer the ownership of the aforementioned materials and goods at the time when the Supplier receives the prepayment.

#### 9 Payment

9.1 We will pay the invoices - regarding the goods accepted by us - sent in threefold by the Supplier and mentioning order numbers within the agreed term for payment if the invoices and underlying documents have reached us within the same month as wherein the contract is performed by the Supplier. If an invoice and/or the underlying documents reaches us any later and this would lead to a delay in payment we do not compensate interest or costs. If any errors in the invoices and/or the underlying documentation are found the term of payment commences on the day after receipt of the correct invoices and/or underlying documents. If the service supplied to us is a transport service where goods have to be delivered to third parties, the invoice has to be accompanied by a consignment note signed without reservations by the consignee of the goods.

9.2 The Supplier shall not be entitled to charge us a credit restriction surcharge in whatever form or under whatever description.

9.3 The invoices shall meet the requirements of the Value Added Tax Act [*Wet op de Omzetbelasting*].

9.4 If partial payment or prepayment is agreed we shall be entitled, prior to payment being effected, to require the Supplier besides or instead of transfer of ownership to have an unconditional and irrevocable bank guarantee issued by a bank which is acceptable to us, such by way of security for the performance of the Supplier's obligations.

9.5 If payment by means of a Documentary Credit is agreed, all related costs are for the account of the Supplier, unless explicitly otherwise agreed upon.

9.6 Any payment made by us shall on no account mean that we waive any right.

## 10 Warranty and inspection

10.1 The Supplier warrants that the goods delivered by him shall meet the requirements of the Contract, including - if given by us - the operating and technical program of requirements. The Supplier also warrants that the products shall at least meet the statutory requirements and shall be in accordance with other governmental regulations (expressly including EU-regulations) in effect at the time of the conclusion and performance of the Contract i.e. the actual delivery of the goods. The goods will have to be fit for their purpose.

10.2 We shall have the right to have the goods (or any part thereof) sold to us inspected and tested by persons or authorities to be appointed by us. For this purpose the Supplier shall grant access to the locations at which the goods are produced or stored and shall cooperate in the inspections and tests as well as provide the required documentation and information, costs of which being for the account of the party being wrong. If the Supplier so wishes he shall have the right to attend the inspections.

10.3 If the goods sold to us, regardless of the results of an earlier inspection, turn out not to meet the requirements set in the first paragraph of this article the Supplier shall at our discretion and for his own account either replace or repair the goods. This provision is without prejudice to the possibility that we shall dissolve the Contract in accordance with the provisions of article 12 hereunder. In urgent cases and if, after consultation with the Supplier, it may reasonably be assumed that the Supplier cannot or will not, not timely or not properly see to repair or replacement we shall have the right to, for the account of the Supplier, either see to the repair or replacement ourselves or have the repair or replacement be seen to by a third party.

10.4 If no term of guarantee is agreed, the term of guarantee shall be 12 months counted from the date of acceptance as referred to in article 7.

## 11 Liability

- 11.1 The Supplier shall be liable for all loss sustained by us or third parties on account of any defect in or to the goods sold as a result of which they do not have the degree of safety which they may reasonably be expected to have.  
The Supplier shall pay compensation in full (including costs and expenses incurred in court) for all loss which as a result of such defect is sustained by us or by a third party. The supplier shall save us harmless from and against claims of third parties against us related to goods delivered to us by the Supplier.
- 11.2 The Supplier shall pay compensation in full (including costs and expenses incurred in court and arbitration) which as a result of or in connection with the Contract is sustained by us or third parties, irrespective of whether such loss has been caused by the Supplier or by his personnel or by any other person or body corporate for whose acts the Supplier is responsible. The supplier shall save us harmless from and against claims of third parties against us related to goods delivered to us by the Supplier.
- 11.3 The Supplier shall be authorised to have a third party, either partly or in full, (co-) execute the order given by us to the Supplier. Irrespective of approval the Supplier shall remain responsible and liable for the performance of the Contract.
- 11.4 The loss as referred to in paragraphs 1 and 2 of this article shall mean loss in the broadest sense, including consequential loss.
- 11.5 The provisions of paragraphs 11.1 and 11.2 shall be regarded as a third-party clause within the meaning of Section 6:253 Netherlands Civil Code. The Supplier cannot revoke this clause and is made to the benefit of any third party for no consideration.
- 11.6 Save in the event that loss has been caused through wilful default or gross negligence by us, we shall not be liable for any loss sustained by the Supplier or his personnel or by any third party that the Supplier may involve in the performance of the Contract. The Supplier shall indemnify and save us harmless from and against any claim or action by third parties relating to the Contract.
- 12 Default/Termination
- 12.1 Each and every agreed term set for the fulfilment of any obligation of the Supplier shall be an absolute deadline. By the mere expiry of such term the Supplier shall be in default, irrespective of whether or not prior demands for performance have been sent to the Supplier.
- 12.2 We shall have the right, without any notice of default being required, to dissolve the Contract immediately or to (partly) suspend the performance of our obligations under the Contract by means of written notification to the Supplier without any obligation to pay compensation to the Supplier in any of the following events:
- the event referred to in paragraph 1 of this article and in the event that the Supplier fails to fulfil any other material obligation in full and/or timely;
  - if the Supplier fails to fulfil any other obligation despite written demands thereto;

- if the Supplier or the person or company who has issued any guarantee or furnished security for the fulfilment of the Supplier's obligations goes into liquidation or discontinues his/its business or passes a winding-up resolution or a resolution to discontinue his/its business, or in the event of (filing) a petition in bankruptcy or suspension of payments;
- if any change is made in the composition of the Supplier's shareholders/management which in our reasonable opinion implies a substantial increase of risk;
- if an attachment is levied against the Supplier which is not lifted within 10 days.

12.3 In any of the events referred to in paragraph 2 of this article our claims against the Supplier shall be immediately payable in full.

12.4 The provisions of this article are without prejudice to our other statutory rights and our rights under the Contract.

### 13 Choice of law and jurisdiction

13.1 These Conditions as well as the Contract shall be governed by Netherlands law.

13.2 The United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) is not applicable to these conditions and the contract.

13.3 Any dispute arising from the Contract or these Conditions, unless otherwise prescribed by law, shall be submitted to the court of competent jurisdiction in Rotterdam, always provided that we shall have the right to bring actions, concurrently or otherwise, against the Supplier in any other courts of law which have the power to hear and decide on such cases.