

**GENERAL PURCHASE AND SUBCONTRACTING CONDITIONS**  
**GEO BENELUX B.V.**

**Article 1: General**

1. These conditions apply to every agreement - hereinafter referred to as instructions – for the delivery of objects, goods and/or services and/or the execution of works between GEO BENELUX B.V. - hereinafter to be referred to as the client – and the other party - hereinafter to be referred to as the contractor.
2. All (delivery) conditions of the contractor or third parties are expressly excluded, unless the client being authorised represented, has expressly agreed to the other conditions in writing. Departures from, or additions to, these general conditions are only binding if and insofar as the board of the client has agreed to such in writing.
3. If one or more provisions of these general terms and conditions are void or voided, the remaining provisions remain in full force.

**Article 2: Acceptance of the instructions**

1. The contractor must return the instructions it received unchanged and signed to the client within the term indicated by the client and at the latest within 14 days from the date of dispatch of the instructions.
2. If the client has not received the instructions back from the contractor within this term and the contractor has not within this term submitted a written objection to the content of such, or the contractor or the client has commenced with the performance of the instructions, the instructions are deemed to have been accepted under the conditions as set out in the instructions and under application of these general terms and conditions. The parties agree that communication may also take place electronically, by email for example.
3. The client is only bound to any obligation if it is entered into by its officer authorised under the articles of association unless the client has indicated, whether or not in writing in advance, that an employee of the client has delegated authority or the client considers itself bound in any other way.
4. The technical specification and/or any specifications applicable to the instructions, as well as the accompanying drawings, explanations, additions and such like form, insofar they are not expressly included, part of the instructions. These details and are at all times available for inspection at the client and the client shall provide copies of such to the contractor on the basis of confidentiality on request.
5. By the acceptance or the performance of the instructions, the contractor is deemed to have inspected the specifications and all relevant (technical) documents and to have received all other information the contractor required. If the contractor fails to request actual inspection and/or information, any consequences are for the contractor's account and its risk.

6. If the contractor discovers an apparent lack of clarity, inaccuracies or flaws in the instructions, the contractor is, before commencing with the performance, production or delivery of the instructions, obliged to notify the client of such in advance in writing and to request clarification or explanation.
7. Amendments, additions and expansions in the instructions may only take place with the written consent of the client and are in that case deemed to form part of the agreement for services. If the client has notified the contractor of the client's proposed amendments, additions and/or expansions in writing and the contractor has not within five days of the dispatch date notified unequivocally and in writing not to agree to those, the consent referred to in the previous sentence is deemed to have been granted.
8. If a quotation or an offer by the contractor to amend, supplement or expand is not accepted by the client, the contractor is never entitled to charge the costs related to the formation of the offer to the client unless the parties have agreed otherwise in writing prior to the offer.

### **Article 3: Performance of the instructions**

1. The contractor must commence the delivery/deliveries and/or work at the time stated in the order and it must take place in accordance with the schedule agreed between the parties and apply as an essential obligation.
2. The contractor is obliged to notify the client immediately in writing if the contractor knows or expects that the instructions cannot be performed on time or fully or otherwise performed faulty stating the circumstances causing this, the measures taken or to be taken by the contractor and the expected duration of the delay etc. This notification leaves the obligation to perform on the part of the contractor and the rights of the client as provided for in the law and in these conditions – including the right of the client to immediately charge a third party with the instructions for the account of the contractor - unaffected.
3. Unless otherwise agreed, delivery of materials is carriage paid to the agreed place of delivery under the delivery condition Delivery Duty Paid in accordance with the most recent version of Incoterms 2010. In that connection, the contractor undertakes to do all that it can on its part to come to an as speedy as possible delivery for the client of the goods and/or services ordered by the client at the location indicated by the client in the agreement or instructions. The unloading risk is for the account and at the risk of the contractor.
4. Unless otherwise agreed, transport, storage, loading and unloading of the material to be used by the contractor in the works are also for the account and at the risk of the contractor.
5. In the event of contracting, the working hours of the contractor must correspond with the hours generally applicable for the work. Paid overtime is not permitted except with the prior written consent by the client.
6. The client is at all times entitled to further determine the order and/or timing of the delivery and/or work to be performed if the client considers this desirable whether or not in connection with the progress of the work. In that case, the contractor is not entitled to compensation and/or reimbursement of expenses

unless in the exclusive opinion of the client, due to that change, the costs of the contractor are demonstrably substantially increased and in the exclusive opinion of the client reasonableness dictates that (part of) these costs are for the account of the client.

7. The contractor is not entitled to deliver ordered goods in consignments unless agreed by the client in writing.
8. The contractor is not permitted to use (hired) labour made available by third parties without the express prior written consent of the client.
9. The contractor shall for its own account and at its own risk be responsible for any storage space it requires.
10. The contractor is, subject to express prior written consent of the client, not entitled to have the agreement performed wholly or in part by third parties or to transfer any rights or obligations arising from the agreement for the contractor to third parties. If such consent is granted by the client, the contractor guarantees that the subcontracting and/or transfer of the obligations by the contractor shall take place under the same conditions as those that apply to the agreement between the client and the contractor and that this leaves all joint and several liabilities of the contractor arising from the agreement unaffected.
11. If the instructions, whether or not outside the blame of the contractor or the actual performer, cannot be executed in the manner as indicated at the time of the granting of the instructions, the contractor or actual performer of the agreement shall notify the client of this as soon as possible in writing. In such case, the parties shall enter into consultation in order to find a solution.  
This situation does not entitle the contractor to terminate the agreement and does not have any consequences of the contractor's obligation to perform.

#### **Article 4: Obligations of the contractor**

1. The contractor guarantees and must ensure that:
  - during the delivery it has to make and/or the work it has to carry out, the contractor exclusively follows the directions and instructions indicated by the client;
  - the delivery it has to make and/or the work it has to carry out is carried out properly and in accordance with the provisions of the instructions and that it is free of hidden defects;
  - the delivery it has to make and/or the work it has to carry out is carried out completely and is suitable for its intended purpose;
  - the delivery it has to make and/or the work it has to carry out, as well as the contractor itself, at least satisfies all the applicable statutory requirements and regulations in the country of delivery or performance;
  - for the delivery it has to make and/or the work it has to carry out it always uses sound materials and competent personnel;

- it uses the material made available to it expertly and for the purpose for which it is intended and that it shall maintain the material and return it in the same condition in which it was provided;
  - it will clearly mark the materials, aids and such like made available by the client for the work, as being the property of the client, hold it as borrower and in good condition, it carries the risks for such until such time the client is again in possession and not to use, multiply, copy or provide it to third parties or use in any other way than exclusively for the current instructions and/or after prior written consent of the client;
  - if, after prior obtained written consent of the client, it engages third parties for the benefit of the work, these third parties are competent, qualified and bona fide;
  - the delivery it has to make and/or the work it has to carry out is free from design and execution faults and faulty materials;
  - it shall strictly observe all its obligations relating to the employees it has engaged in the work;
  - it shall in the correct manner and as prescribed by law, be responsible for the treatment, disposal and processing of waste and the associated costs are fully included in the agreed price;
  - in the event of subcontracting in the meaning of the Wages and Salaries Taxes and National Insurance Contributions (Liability of Subcontractors) Act [*Wet Ketenaansprakelijkheid*] it shall at the request of the client show an original statement relating to its payment history with the tax authorities and the industrial insurance board and/or satisfies other statutory obligations in respect of these instructions;
  - it refrains from making estimates and/or offers to the principal of the client for work connected with the work instructed by the principal to the client;
  - it maintains proper records;
  - it is insured for its work, material, personnel and liability such as pursuant but not limited to - if applicable, product liability, CAR, machinery and equipment and such like on such basis that loss of the client, including consequential loss and indirect loss, is covered.
2. The contractor is also obliged to notify the client on time about any developments relevant to the client in respect of its product range and/or brand and/or company.
  3. The contractor undertakes during the performance of the instructions, as well as for two years after termination of such, subject to prior written consent of the client, not to employ either directly or indirectly, companies and/or persons affiliated to the client or engage such in any way.

**Article 5: Guarantee**

1. Unless the parties have expressly agreed otherwise in writing, the contractor guarantees to undo or repair all the (consequences of) defects which might occur to the delivery for two year after acceptance of or the processing of - according whether the latter occurs - the delivery by the contractor for its own account and at its own risk on the proviso that in the event of subcontracting, the contractor gives at

least the same guarantee which the client in the context of the main agreement has to provide to its principal.

2. If the factory guarantee provided with the delivered goods is more extensive than the term referred to in paragraph 1, the guarantee provided by the manufacturer shall apply as a minimum.
3. The contractor is obliged to bear all the costs related to the repair of the defects for which it is liable pursuant to paragraph 1 and 2 including, but not limited to, transport, crane and such like. If in the view of the client, the contractor does not repair the defect on time and/or not properly or the repair of the defect cannot tolerate any (further) delay, the client is free, after a written demand whereby the contractor has been given a reasonable term to fulfil its obligations, to do all that required, or have such done by third parties, for the account of the contractor, or ensure compensation.
4. The period as referred to in paragraph 1 of this article is extended by the time from delivery during which, due to a defect which at the time of the guarantee is for the account of the contractor, the article cannot be used for its intended purpose. For repaired and/or replaced parts of the delivery, the period referred to in paragraph 1 of this article starts to run afresh from the time they have been taken into operational use after repair. It also applies that (the consequences of) defects which manifest themselves after expiry of the term of two years referred to in the paragraph 1 of this article but are related to the delivery and/or work carried out previously or before acceptance of the delivery, provided such are notified within two years after discovery, must be undone or repaired by the contractor in the manner set out in this article.
5. The provisions of this article do not release the supplier of its other liabilities whether or not on the basis of the other articles in these conditions.

#### **Article 6: Checking, inspection and testing**

1. Checking, inspection and/or testing by or on behalf of the client and/or the principal may take place both prior, during and after the work and/or delivery. The contractor must render its full cooperation to this on demand which includes the provision of information and the granting of access to locations where the work is taking place or the objects are being produced and/or stored as well as making facilities available deemed required by the client.
2. The costs of an (interim) (re)checking, (re)inspection and/or (re)testing are for the account of the client if it appears that the materials and/or work corresponds with the requirements in the agreement. If such appears not to be the case, these costs are for the account of the contractor.
3. In the event of rejection of the material or the work or a part thereof, the client shall notify the contractor of this immediately. The contractor shall immediately repair or replace the rejected material and/or work or part thereof at the request of the client without the client being liable for any extra payment. If it can reasonably be assumed that the contractor will not carry out the repair or replacement, or not do so on time or properly, the client is entitled to repair or replace the object for the account of the contractor or to have such done.

4. The repair or replacement of the rejected material and/or work, or a part therefore, does not detract from the obligation of the contractor to pay compensation for any (in)direct loss or consequential loss – including loss due to delays - suffered by the client or third parties as a result.
5. On rejection of the material and/or work, or a part thereof, the client is entitled to suspend the payment of the price relating to the material and/or the work, or part thereof, or a part of the contract price, without prejudice to the obligation of the contractor to pay compensation for any further loss the client and/or its principal suffers or shall suffer as a result of this rejection.
6. If on rejection of the material and/or the work or a part thereof the contractor, after having been notified of such does not (fully) fulfil its obligation to repair or replace within the term set by the client, or if delivery is no longer possible/useful, the client is entitled to terminate the agreement without any further notice of default being required.
7. The contractor cannot derive any rights from the results of an interim check, inspection and/or testing.
8. Approval, inspection and/or testing do not release the contractor from any guarantee or liability arising from the instructions and/or these conditions.

#### **Article 7: Prices**

1. Unless the instruction determines otherwise in writing, the agreed price shall be fixed and binding and include the costs for all goods and actions required to perform or complete the instructions which includes the required material, equipment and documents, preparatory acts, levies, customs duties and taxes (excluding VAT), fees, transport, insurances, overhead costs, profit and such like.
2. The prices indicated by the contractor are not subject to the application of any price change formula. The contractor cannot implement price changes without the prior written approval of the client.
3. Additional work shall only be eligible for payment if the client has instructed this in writing in advance.

#### **Article 8: Invoicing and payment**

1. Invoices must be submitted in duplicate to the client, numbered, dated, stating the contract number and VAT number of the contractor and accompanied by a detailed specification of the delivery or the work. Invoices must also be in accordance with the statutory requirements in respect of the Turnover Taxes Act [*Wet Omzetbelasting*].
2. Any agreed and performed additional work must be invoiced separately.
3. Payment by the client takes place in the manner and at the times set out in the agreement and shall not occur earlier than after the contractor has satisfied all its obligations under the agreement. This includes in any event, to the satisfaction of the client, the delivery of the object or completion of the work by the contractor, the payment by the contractor of the wages, wages tax and contributions for the employees involved in the work.
4. Unless the parties agree otherwise in writing the client is, in the event of subcontracting in the meaning of the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act,

always entitled to pay the wage tax, contributions and national insurance contributions due by the contractor for the work, for which it is severally and liable responsible in accordance with said act, to the contractor by payment into its G-account. If the contractor does not have such an account, it will open such on demand of the client and take the necessary steps to this end.

5. If no payment into the G-account of the contractor takes place, or if the amount transferred into such account appears not to be sufficient to pay all the wage tax and contributions, the contractor indemnifies the client against all claims any government body may have on the client in the context of the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act.
6. In the event of subcontracting as referred to in point 4 above, the invoice must also include the gross wage bill of the employees involved in the works.
7. The client is entitled to suspend payment if the client or third parties observe shortcomings in the delivery and/or prices and/or conditions and/or acts have taken place in conflict with these conditions by or on behalf of the contractor. This suspension is possible until such time the contractor has fulfilled its obligations, without prejudice to the right of the client to claim compensation and/or performance or termination of the agreement plus compensation.
8. Payment by the client never entails acknowledgement that the contractor has satisfied (properly and/or full) its obligations towards the client.
9. The client is at all times entitled to offset claims observable in money which the contractor has on the client, with claims, of whatever nature, which the client has on the contractor. The contractor does not have such a right of setoff in respect of the client.
10. The client is at all times entitled, in its exclusive opinion, to demand adequate security for the, whether or not future, claims on the contractor and make it subject to time limits.

#### **Article 9: Confidentiality**

1. Unless otherwise agreed in writing, the contractor undertakes, with the exception of cases referred to in paragraph 2 and 3 of this article, to observe confidentiality toward third parties in respect of all that it becomes aware of during the performance of the agreement at or about the client, the delivery and/or the work.
2. Only in the event there is a demand to disclose the information whereby the contractor is obliged by law to provide information which is not accessible to the public does the duty of confidentiality as referred to in paragraph 1 of this article lapse.
3. The duty of confidentiality as referred to in paragraph 1 of this article also lapses if it concerns information which is already common knowledge on the day that the contractor has become aware of it or the information which, other than through unlawful acts by one of the parties, has become common knowledge after the date on which the relevant party has become aware of it.

4. The contractor is not entitled to disclose the existence and/or results of the agreement in brochures, advertisements or otherwise in the media or in letters and such like without the prior written consent of the other party.

#### **Article 10: Ownerships rights**

1. Insofar as not determined otherwise in these conditions or in the agreement, in the event of the delivery of the goods the ownership of such transfers to the client at the time of actual transfer.
2. In the event of payments which take place before the delivery of the goods, the ownership shall transfer to the client at the moment of payment, to the amount of the payment, on condition that on actual transfer the goods are accepted by the client.
3. In the event of subcontracting, the ownership of the goods to be delivered or produced transfers to the client as soon as the contractor has started to process them for the work, has received them from third parties or has produced them. In the event of the previous paragraph, the contractor guarantees to keep the goods for the client and to identify and mark them as being the property of the client.
4. In the event of rejection of the delivered as referred to in article 6 of these conditions, the ownership and the risk of the rejected goods are deemed to have remained with the contractor and never to have transferred to the client.
5. The material made available by the client is and remains under all circumstances the property of the client and shall be identified as such by the contractor in a manner recognisable by third parties. The material is deemed to be in a good condition and in accordance with the specifications unless the contractor within a reasonable term from receipt has complained in writing.
6. The drawings, designs, images, models, offers and reports provided by the client are and remain the property of the client and may not be copied, shown to third parties or used in any other way without the prior written approval of the client.
7. The client is and remains the owner of all industrial and/or intellectual property rights relating to the goods referred to in paragraph 5 unless these rights are transferred to the contractor by agreement.
8. If the clients makes goods available to the contractor for processing or treatment or for merger or confusion with goods which are not the property of the client, the client is and remains the owner or the client becomes the owner respectively of the goods so created.
9. The contractor guarantees that the delivery does not breach the intellectual property rights of third parties and indemnifies the client against any claim in this respect.

#### **Article 11: Liability**

1. The contractor is liable for all loss, including consequential loss and costs, which the client and/or third parties including personnel and (personnel of) the principal of the client may suffer as a result of the delivery or work by the contractor.

2. The contractor indemnifies the client against all claims by third parties, including – but not limited to – in the appropriate case the principal of the client, arising from the delivery or work carried out by the contractor.
3. The client is entitled, but not obliged, to pay and/or repair any damage caused during the work by the contractor and/or arising from the delivery, immediately and for the account and at the risk of the contractor without prejudice to any other rights the client is entitled to. The costs of such, possibly increased with the costs incurred by the client in this respect, shall then be paid immediately by the contractor to the client and may then unreservedly be deducted by the client from any sums still to be paid to the contractor or deducted from (other) sums still due to the contractor, without prejudice to any other rights the client is entitled to.
4. If two or more contractors have carried out the instructions, they are jointly and severally liable for the complete performance and the resulting consequences.
5. The client is never liable towards the contractor or the third parties engaged by the contractor for loss resulting from an attributable shortcoming or an unlawful act by the contractor or third parties engaged by the contractor.
6. The client is never liable towards the contractor or the third parties engaged by the contractor for consequential loss, which includes in any case trading loss and loss due to business interruption and/or loss of profit nor for claims commenced by third parties whereby in respect of the last referred to claims the contractor fully indemnifies the client.
7. The client is not liable for costs, loss and interests which might arise for the contractor or third parties it has engaged as a direct or indirect result of:
  - infringements of patents, licences or other rights as a result of the use of information provided by or on behalf of the contractor;
  - acts and omissions by the contractor, its subordinates or other persons who are engaged in or are present at the work by or on behalf of the contractor;
  - damage or loss, through any cause whatsoever, of the goods made available by the contractor, in which case the contractor fully indemnifies the client.
8. The limitations in liability included in paragraphs 5 to 7 inclusive do not apply in the event the loss is the result of the intention or wilful recklessness, to be proven by the contractor, of the board of the client.
9. In the event the client is nevertheless considered to be liable towards the contractor or the third parties the contractor has engaged on whatever basis, the liability is restricted to the cover of its liability insurance plus the amount of the excess in accordance with the relevant policy. If, for whatever reason, this cover does not apply, the liability of the client is limited to the amount of the net profit margin of (the part of) the work or the purchased object to which the loss can be retraced or to which it relates, the latter in the widest sense of the word.

### **Article 12: Lapse of right**

1. The contractor can no longer claim payment by the client of any amount still due to it on whatever ground if it does not within 12 months following the delivery of the moveable property, delivery of its work or termination of its work - in respect of the work the earliest date of either delivery or termination is decisive - submit its invoice in respect of the amount it is due in the manner set out in article 7 of these terms and conditions to the client.

### **Article 13; Suspension/setting aside/termination**

1. If the contractor fails to perform any obligation arising for the contractor from the agreement or an agreement connected to it, or fails to perform it properly or on time, or if there are reasons to fear that the contractor is or shall be unable to fulfil its contractual obligations towards the client, as well as in the event of bankruptcy, a moratorium, business closure, insufficient (to be determined at the satisfaction of the client) credit limits or exceeding those, liquidation or partial transfer - whether or not as security – of the company of the contractor including the transfer of (a part of) its receivables or (part of) its shares, change of control within the company of the contractor or in the event an agreement entered into between the client and principal is wholly or partially terminated or suspended, the contractor is entitled without notice of default or recourse to the courts being required, either to suspend the execution of any of these instructions or to terminate them wholly or in part such without the client being liable to pay any compensation and without prejudice to other rights to which the client is entitled.
2. The client is never liable for loss or costs due to loss of profit as a result of such suspension, setting aside, termination or any other kind of termination.
3. Except in the event suspension or termination taking place due to the agreement entered into between the client and principal being wholly or partially terminated or suspended, the client is in the event of suspension or termination set out in paragraph 1 entitled to use the auxiliary materials present at the work used by the contractor to complete the contracted work, or have such used.

### **Article 14: Applicable law and choice of law**

1. All legal relationships between the client and the contractor are exclusively governed by Dutch law.
2. Any dispute which might arise from this agreement or from agreements which result from it, between the client and the contractor which cannot be resolved by means of consultation between the parties shall be exclusively submitted to the District Court in Limburg.
3. There is a dispute if one of the parties declares that such is the case.

**Article 15: Final provision**

1. These general conditions have been filed with the Chamber of Commerce and Industries for Limburg North. In addition, they are at all times available for inspection at the offices of the client and shall be sent free of charge on request. They are also published on [www.geobenelux.com](http://www.geobenelux.com)