



GENERAL TERMS OF PURCHASING AND (SUB)CONTRACTING

General Terms of Purchasing and (Sub)Contracting Conditions of Hoeben Electronics in Lage Mierde (the Netherlands).

TERMINOLOGY

Client = Hoeben Electronics

Contractor = Supplier or subcontractor

GENERAL

Article 1: Applicability

- 1.1. Articles 1 to 16, inclusive, of these General Terms shall be applicable to all offers made to the Client and all agreements concluded with the Client for the delivery of Products. If the offers or the agreements concluded also or exclusively concern (sub)contracting and/or execution of Services, articles 17 to 22, inclusive, of these General Terms shall apply as well.
- 1.2. The Client is the natural or legal person using these General Terms of Purchasing and (Sub)Contracting. The other party shall be referred to as the Contractor. In these General Terms, Products shall also include the work to be performed, unfinished Products, work in progress and/or the execution of Services.
- 1.3. The standard conditions of the Contractor shall not apply and are expressly rejected.
- 1.4. Any deviations from these General Terms of Purchasing and (Sub)Contracting shall only apply if the Client has provided the Contractor with written confirmation of these.

Article 2: Costs related to offers

The Client shall not reimburse any costs made in connection with offers or quotations, also including the costs of advice, drawings etc. made by, or on behalf of, the Contractor.

Article 3: Delivery date and penalty

- 3.1. The Contractor shall deliver the Products in accordance with the delivery date mentioned in the Purchase order. If the Products have not been delivered in full by the delivery date, the Contractor shall be deemed to be in default. As soon as the Contractor has reasons to suspect that he will not be able to deliver, to deliver duly or to effect delivery wholly or partly in time, he shall inform the Client immediately.
- 3.2. The Contractor shall be liable for any damage and/or loss incurred as a result of a delay in delivery as meant in article 3.1.
- 3.3. For each day of delay in delivery the Contractor shall pay the Client a penalty payable on demand of 1% of the agreed purchase order with a minimum of € 25,00 to a maximum of 40% of the agreed purchase order.
- 3.4. The penalty referred to in article 3.3. may be claimed in addition to damages by virtue of the law. The Client is entitled to set off this penalty and/or these damages against the amounts owed to the Contractor.



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Article 4: Prices

- 4.1. The prices referred to in the offer are based on delivery "DDU" for deliveries within the European Union and "DDP" for deliveries outside the European Union, in accordance with Incoterms 2000. All prices are firm, fixed, net of all duties and taxes and include adequate packaging.
- 4.2. Any increase in prices after the agreement has been concluded shall not be passed on to the Client, regardless of the period which has elapsed between the date the agreement was concluded and its execution.

Article 5: Transmission of risk

- 5.1. Delivery of the Products shall be made "DDU" for deliveries within the European Union and "DDP" for deliveries outside the European Union, in accordance with Incoterms 2000.
- 5.2. If the Contractor still chooses either to transport or to arrange for transport, despite the fact that the prices are based on delivery "DDU" or "DDP", the risk for loading and transport shall be borne by the Contractor.
- 5.3. If the Products are collected on behalf of the Client, the Contractor has to assist the Client with the loading free of charge. In that case the risk of loading shall be borne by the Contractor.

Article 6: Inspection and testing

- 6.1. The Client and/or its principal and/or the Board of Directors and/or its customers and/or its assignees and/or the regulatory authorities shall at all times be entitled to inspect or test the Products ordered or delivered and the work or work in progress. In that case, the Contractor shall arrange for any facilities which may reasonably be required in connection with this.
- 6.2. The costs of the testing referred to in article 6.1. shall be borne by the Contractor, in the event that the Client and/or its principal and/or the Board of Directors /or its customers and/or its assignees rejects these Products/the work. Inspection or approval shall not release the Contractor from any warranty or liability arising under the agreement or the law.

Article 7: Rejection

- 7.1. If the Products/the work delivered by the Contractor do not meet the requirements set in the order and/or the specification, the Contractor shall be entitled to reject these. Taking delivery or payment of the Products and/or the work does not imply approval thereof. The costs and risks shall remain the Contractor's responsibility until the Client has accepted the Products/the work.
- 7.2. Should the Client reject delivery and/or the work the Contractor shall within a period determined by the Client:
 - repair the Products/the work free of charge; or
 - replace the Products free of charge or carry out the work in accordance with the agreement.



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7.3. If the Contractor does not meet its obligation referred to in article 7.2., or not within the set period, or not to the Client's satisfaction, the Client shall be entitled to carry out repairs itself or arrange repairs by a third party at the Contractor's expense. The Client shall be entitled to set off this penalty/these damages against the amounts owed to the Contractor.

Article 8: Intellectual property rights

The Contractor guarantees that the Products/the work he delivers do not infringe with any third-party intellectual property rights and shall indemnify the Client from all third-party claims which may be raised against the Client. The Contractor shall compensate the Client for any loss, damages and other expenses arising out of or in connection with the infringement of any intellectual property rights.

Article 9: Confidentiality

- 9.1. All Confidential Information which means and includes all information, documents, drawings, know-how, and knowledge etc. disclosed by the Client in whatever form to the Contractor, shall be kept secret and confidential and shall not be disclosed to others or used by the Contractor for any purpose other than for the purpose of executing his respective contractual obligations.
- 9.2. The Confidential Information as meant in article 9.1. shall not be disclosed, directly or indirectly to any third party, without the express written consent of the Client. Moreover, the Contractor shall bind his employees and/or other persons and/or parties involved to the same confidential obligations as stipulated in this article.
- 9.3. If the Contractor has to disclose the Confidential Information as meant in article 9.1 to any third party (parties) in connection with the execution of his contractual obligations, he shall also bind such party (parties) to the same confidential obligations as stipulated in this article.
- 9.4. The Contractor shall owe the Client a penalty payable on demand to the amount of 25 % of the total order sum with a minimum of € 5000.00, if Contractor violates one or more of the aforementioned obligations.
- 9.5. The penalty referred to in article 9.4. may be claimed in addition to damages by virtue of the law. The Client shall be entitled to set off this penalty and or these damages against the amounts owed to the Contractor.

Article 10: Non-competition

The Contractor shall completely refrain from quotations and/or offers to the Client's customers, including any for expansion of and/or alterations to the Products (or work), for which the Client has entered into, or shall enter into, negotiations with Client's customers, whether directly or via mediation by any third parties.

Article 11: Appliances

11.1. All appliances such as drawings, models, moulds, matrices and tools which Client puts at the disposal of the Contractor for the purpose of executing its respective contractual obligations shall remain or shall become under all circumstances the property of the Client. This also



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applies to the appliances, which Contractor made within the framework of the agreement irrespective of whether costs are charged to the Client for their production.

- 11.2. All resources and all copies made of these must be made available to the Client or returned to the Client upon its first request.
- 11.3. At Client's demand the appliances have to be clearly and indelibly (non-erasably) marked as the property of the Client. The Contractor shall indicate the Client's ownership of these appliances to any third party that may wish to seize them.
- 11.4. Notwithstanding the stipulations in article 9 the Contractor shall not use the appliances for any purpose other than the performance of his contractual obligations. The Contractor shall not reveal, or make available, the appliances to third parties without Client's express written permission. The Contractor shall bear the risk of loss of and/or damages to the appliances and shall at his own expense insure the appliances against these risks.

Article 12: Liability

- 12.1. The Contractor is fully liable for all direct, indirect and consequential losses, costs and damages, which may arise as a result of an attributable shortcoming or wrongful act of the Contractor, its staff or auxiliary persons. This also includes any loss arising as a result of the presence, use, delivery or removal of the property of the Contractor, its staff or other persons engaged by the Contractor in the execution of the order.
- 12.2. The Contractor shall fully indemnify the Client against third-party claims for loss compensation or damage as meant in the first paragraph.

Article 13: Insurance

The Contractor shall prove to the Client, upon its request, that the Contractor has arranged, at its own expense, adequate insurance for any loss the Client might sustain as a result of acts or omissions of the Contractor and/or any third parties used.

Article 14: Warranty

- 14.1. The Contractor gives warranty that all Products/the work provided by the Contractor comply with the agreement; be free from any faults or defects with respect to material, design and manufacturing for a period of 18 months after the Products/the work have been put into use or to a maximum of 24 months from the date of delivery.
- 14.2. The Client shall repair all defects in the Products/the work which become apparent during the warranty period immediately and in consultation with the Client, or else replace the defective Products, work or parts of the work.
- 14.3. All Costs in connection with the repair or the replacement of the Products/the work and returning the Products/the work to operation, or – if it forms part of a larger object – the costs in connection with returning said object to operation shall be borne by the Contractor.



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- 14.4. In case the Contractor does not fulfil his responsibilities as agreed within this article, the Client is entitled to repair/rework or to subcontract the repair/rework in order to fulfil the warranty responsibilities to Client's customers and to fulfil Contractor's responsibilities as agreed within this article, at Contractor's own risk and expense. The Client shall be entitled to set off the costs incurred against the amounts owed to the Contractor.
- 14.5. The Contractor shall notify the Client of any non-conforming product or material. The product/material has to get a written Client approval before it can be used or delivered to the Client. The Contractor shall indicate such an approval process without any delay.
- 14.6. The Contractor shall notify the Client of all changes in product and/or process definition changes without any delay. The Client has to approve these changes in a written document before delivery.
- 14.7. The Contractor shall maintain an objective quality management system for his products according to at least ISO 9001:2000 or approval of Client's QA responsible. At client's request the Contractor shall submit relevant proof to Client. The Contractor shall allow the Client (and if applicable their customer as well) and the regulatory authorities to all their facilities and take notice of the administrative records involved in the contract concerned.

Article 15: Payment

- 15.1. As much as possible payment will be effected within the agreed term of payment, unless the Client has a complaint after taking delivery of the Products - including the corresponding documents - with regard to the quantity and/or quality of the consignment or if the consignment is rejected.
- 15.2. In the event of advance payment or periodic payment, the Client shall be entitled to demand a sufficient guarantee for delivery at Client's discretion. If the Contractor does not provide this within the set period, it shall be in default. The Client shall in that case be entitled to rescind the agreement and to recover its losses from the Contractor.
- 15.3. The Client shall be entitled at all times to offset any amounts the parties may have to claim from each other.
- 15.4. The Client reserves the right to pay the Contractor the social security contributions and wage tax owed by the Contractor with respect to the work, for which the Client is jointly and severally liable pursuant to the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act, by payment into its blocked account as referred to in the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act.
- 15.5. Without prejudice to the provisions of the previous paragraph, the Client shall at all times be entitled to deduct the social security contributions and wage tax amounts referred to above from the (sub)contract sum and to pay these directly to the Employee Insurance Schemes Administration Office (UWV) and/or the collector of direct taxes, on behalf of the Client.

Article 16: Applicable law and choice of forum

- 16.1. The law of the Netherlands is applicable.



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- 16.2. The Vienna Convention on Contracts for the International Sale of Products (CIGS) is not applicable, nor is any other international regulation the exclusion of which is permissible.
- 16.3. Only the civil court that has jurisdiction in the place of establishment of the Client may take cognisance of disputes, unless this would be contrary to peremptory law. The Client may deviate from this rule of jurisdiction and apply the statutory rules governing jurisdiction. The parties may agree a different form of dispute resolution such as arbitration or mediation.

(SUB)CONTRACTING/SERVICES

Article 17: Prohibition on Assignment/Pledging

The Contractor shall be prohibited from assigning, pledging or transferring under any title whatsoever, the ownership of the social security contributions and wage tax due, included in the contract sum, for which the Client is liable pursuant to the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act.

Article 18: Contractor's obligations

- 18.1. Vis-à-vis the Client, the Contractor shall be obliged to comply with the following provisions:
- a. having a valid declaration of registration, to be shown at the Client's request, from the relevant Employee Insurance Schemes Administration Office (UWV), in so far as this is provided by the Office;
 - b. a recent extract (no older than three months) from the Trade Register of the Chamber of Commerce;
 - c. to hand over to the Client a list of all employees to be employed for the work, as well as hand over once only for each employee a copy of valid proof of identity and, upon request, payroll records (before the employee commences work);
 - d. to hand over a man-days register, which states for each employee the name, social security number, address, domicile, date of birth and number of hours worked and on which date;
 - e. to strictly comply with all obligations regarding the employees employed by the Contractor;
 - f. to strictly perform all statutory obligations with respect to the payment of social security contributions and wage tax related to the work assigned to it and, furthermore, to strictly observe the applicable Collective Labour Agreement;
 - g. to automatically provide a periodic statement with respect to its payment of wage tax and social security contributions, as referred to in the guideline(s) established within the framework of the Wages and Salaries and Social Security Contributions (Liability of Subcontractors) Act;
 - h. if so desired, the Contractor shall prepare weekly reports according to a model approved by the Client and shall offer the weekly reports, completed and signed by it, to the Client every week for its approval;
 - i. to set up its administration with due observance of the guidelines of the Social Security (Coordination) Act;
 - j. to provide the Client, upon request, with all information for its own administration or the administration of its principal;
 - k. if the Wages and Salaries and Social Security Contributions (Liability of Subcontractors, "Wet Ketenaansprakelijkheid") Act is applicable, the Contractor shall be obliged to have at its



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disposal the original escrow ("G-rekeningovereenkomst") account agreement and to show this at the Client's request.

18.2. In case the Contractor has not, or not yet, complied with its obligations of article 18.1., the Client shall only be obliged to make any payment after it has received the missing data and has processed these administratively, and/or the Contractor has complied with any of its other obligations.

Article 19: Organisation of the work

- a. The Contractor shall be obliged to exclusively observe the Client's directions and instructions.
- b. The Client shall be authorised to deny the Contractor's employees access to the work or to arrange for their removal, on account of unsuitability, disorderly conduct, misconduct etc., without any further reimbursement of costs.
- c. The work and break times at the work site and the rest days or public holidays, vacations or other days off recognised generally or at the location of the work site, or prescribed by public authorities or pursuant to any Collective Labour Agreement, shall also apply to the Contractor and its employees who execute work at the work site. It shall not be possible for the Contractor to recover any losses arising from this from the Client. The latter shall also apply if the Contractor's services cannot be used on account of a strike or other causes evident at the Client or at third parties;
- d. Unless agreed otherwise, the Contractor should ensure, from commencement to completion of the work, that there is a regular foreman at the work site, with whom it shall be possible to make both organisational and technical arrangements. His name must be known to the persons or institutions designated by the Client.
- e. The Contractor should provide its employees with the correct means of personal protection and to supervise their use. Any costs arising from this shall be borne by the Contractor.
- f. Any required insurance as well as the excess of any CAR policy which may have been taken out with respect to the work site, shall be at the Contractor's expense.
- g. The Contractor should arrange for such manpower that the execution of the work is completely adjusted to the planning established by the Client and that other work does not come to a halt. If the Client alters the planning/progress in the work, the Contractor shall be obliged to adjust itself to this. Manpower changes shall only be permitted following the Client's approval.
- h. As prescribed by the Motor Insurance Liability Act (WAM), the Contractor shall be obliged to ensure that the working materials subject to the WAM supplied by it are insured. With respect to the working materials subject to the WAM which are rented by the Contractor, it should be proven to the Contractor's satisfaction that these materials meet the aforementioned insurance requirements.
- i. With respect to cables, pipes and other overground and subterranean property of third parties, the Contractor shall at all times continue to be obliged to arrange for the determination of their location. The Contractor should inform the Client immediately about any damage.
- j. Any required materials such as scaffolding, hydraulic platforms, hoisting materials and small materials, including hand tools, measuring equipment, mobile scaffolding, ladders and stepladders etc., shall be arranged by the Contractor and included in the total price.
- k. If work has to be done on, or to, parts of the work site which have already been completed, such as plastered walls, tiling, paintwork etc., the Contractor should take protective measures in order to prevent damage and/or soiling, and any damage and/or soiling which is detected nevertheless shall be deemed to have been caused by a violation of the aforementioned obligation.



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- I. On completion of the work, the Contractor should deliver the work broom clean and leave behind a clean work site.

Article 20: Invoicing

- 20.1. The Client shall only approve an invoice for payment as soon as the work, or the part to which the instalment pertains, has been completed to the Client's satisfaction.
- 20.2. The invoice should meet the statutory requirements set forth in the Turnover Act. The Contractor should at any rate state the following details clearly and in an orderly fashion:
 - a. the Client's name and address;
 - b. the Contractor's name and address;
 - c. the number of the agreement;
 - d. the work site and the location(s) at which work has been executed, to which the invoice pertains;
 - e. the period and the execution to which the invoice pertains;
 - f. a statement of the turnover tax or the transfer arrangements with respect to it, if this is not applicable, and in the latter case, the amount of turnover tax;
 - g. the amount of the Social Security (Coordination) Act payroll total included in the invoiced amount;
 - h. a statement of the VAT identification number of the Contractor;
 - i. a statement of the VAT identification number of the Client, if the VAT payment has been transferred to the Client;
 - j. an indication of the invoice amounts, split according to tax rate and subsequently subdivided into unit prices and any discount applied.

Article 21: Statutes and regulations

- 21.1. The Contractor shall be deemed to be familiar with all statutory and other regulations, terms and provisions, including the Buildings Decree and the Building Materials (Soil and Surface Waters Protection) Decree, which the Client should observe and comply with pursuant to the contracting agreement concluded by it, in executing the work which forms part of this agreement.
- 21.2. The Contractor undertakes to observe and comply with all regulations, terms and provisions, including the building sites regulations, the working Conditions Act, safety legislation, the Environmental Management Act, in so far as pertaining to the delivery to be made and the work to be executed by it, also including those with respect to safety and working conditions and those pertaining to nuisance to and/or hindrance of third parties. The Contractor shall itself procure any permits and safety measures in connection with the delivery to be made and the work accepted by it.

Article 22: Execution by third parties

- 22.1. Without prior written permission from the Client, the Contractor shall not transfer or subcontract the order, or any part of it, nor the execution of it to another party.
- 22.2. If the Contractor, after having obtained permission, assigns the work, or any part of it, to a third party, the Contractor should immediately draw up a written agreement with respect to



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this product and/or work, of which the terms of this agreement should form part. The Contractor placing the order shall hereby take the Client's legal position and the third party that of the Contractor.

22.3. Transfer/subcontracting shall not affect the Contractor's obligations under the agreement with the Client.

22.4. Without prejudice to the provisions in articles 22.1., 22.2. and 22.3., the Contractor shall not be authorised to use the employees made available to it, until after the Client's prior written permission. In the event that the work is subcontracted, or workers are hired in, as referred to above, the Contractor shall be obliged to comply with the administrative regulations of the Social Security (Coordination, "Uitvoeringsregeling inleners - keten - en opdrachtgevers-aansprakelijkheid and Coördinatiewet Sociale Verzekeringen") Act.