

## GENERAL OFFER, DELIVERY AND PAYMENT TERMS AND CONDITIONS OF THE MEMBERS OF THE INTERIOR BUILDING SECTION OF THE CENTRAL FURNITURE MANUFACTURERS ASSOCIATION

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### Article 1 SCOPE OF APPLICATION

1. These Terms and Conditions shall apply to any and all Agreements and Offers and Tenders for the delivery of timberwork, project fittings, shop fittings, furniture and upholstery as well as to all other items included in the work, irrespective of the fact whether it concerns an assignment after tender for a contract or otherwise.
2. Except as set forth in these General Terms and Conditions, the General (Tender) Terms and Conditions used by the applicant shall not apply unless these have been explicitly accepted in writing by the tenderer.

### Article 2 TERMS AND CONDITIONS OF TENDER OF THE APPLICANT

1. The Terms and Conditions of Tender must be the same for all tenderers. In case of inequality, the Terms and Conditions of Tender most favorable for the tenderers shall be applicable.
2. Subscription periods for tenders must be at least 10 working days for objects of any substantial size in order to enable the tenderers to submit a soundly calculated offer.
3. The data to be supplied by the applicant must comply with reasonable requirements of clarity and accurateness and correspond fully with the attached drawings, if any. Amounts of articles must be precisely mentioned. Any application that does not satisfy these Terms and Conditions may for this reason be refused and sent back.

### Article 3 COPYRIGHT

1. The tenderer shall reserve the copyright to the plans, pictures and drawings, sketches and/or offers submitted by him together with the offer. These documents remain his property – irrespective of whether costs for drawing have been or will be separately charged unless a separate amount has been or will be charged for the transfer of copyright.
2. Without the written consent of the tenderer, drawings, plans, pictures, sketches and/or offers submitted by him, may not be copied, shown to third parties or used in any other manner.
3. The drawings, plans, pictures, sketches and/or offers submitted by the tenderer must be sent back to the tenderer free of any costs within 14 days from the date that it is decided that the tenderer shall not be instructed to carry out the work, unless differently agreed in writing.
4. The instructing party acting in violation of the provisions included in Article 3 paragraphs 2 and 3, shall owe to the tenderer an amount that is equal to ten per cent of the amount of the quotation made with the offer; such amount will be paid by the instructing party to the tenderer on demand. Ownership and copyright shall not be transferred because of such payment.

### Article 4 PROVISIONAL SUMS

1. Unless differently agreed in writing, prices offered to deliver fittings, or part(s) thereof, to be installed and/or assembled on location shall not include:
  - a. ground work, pile driving, cutting, demolishing, laying foundations, bricklaying, carpeting, plastering, painting, wall papering, repairing or other building work, of any nature whatsoever, nor the costs of making connections to the main networks of sewerage, gas or water or the electricity network, leveling and cleaning of floors, walls or ceilings or cleaning other items than the items to be delivered;
  - b. any additional assistance in connection with dragging (away) parts that cannot be handled by the contracted party itself, as well as the hoisting and lifting gear used hereby.

### Article 5 OFFERS

1. Any and all prices offered are net, exclusive of turnover tax and are based on execution within normal working hours. Offers shall only be binding upon tenderers in case this is explicitly mentioned in writing on the offer or explicitly mentioned otherwise in writing to the applicant. Any offer that is binding upon the tenderer on the basis of the provisions herein shall become invalid upon the lapse of 30 days from the date of the offer.
2. Tenderer shall be entitled to charge on to the applicant any increases in wages, prices of raw materials, freight costs, currency exchange costs, insurance premiums and any levies imposed by government authorities (in particular taxes) with regard to the activities and/or (parts of) fittings to be assembled that at the moment of coming into force of the increases must still be carried out and/or delivered by tenderer.
3. The tenderer shall reserve the right to make minor changes to the construction in so far as these do not bring about any material changes to the work. The offer shall include in which manner over and under adjustments, if any, shall be settled.
4. In the event that the assignment for the execution of the work is not granted to the tenderer the applicant shall be obliged to return the offer to the tenderer complete with plans, pictures and drawings within 14 days from the date of the decision (article 3 paragraphs 3 and 4).
5. With due observance of the provisions included in paragraph 2 of this article, the offered prices are firm for the duration of the work, unless indexation has been agreed. In the event that indexation has been agreed, it will be based on the price index figure, series for inland production, of the Netherlands Central Bureau of Statistics (*Centraal/Bureau voor de Statistiek*), unless differently agreed.

### Article 6 RESPONSIBILITIES WITH REGARD TO THE WORK

1. The offeror shall be responsible for the sound and proper execution of the work.
2. When making an offer, the offeror shall not accept any responsibility for any plan elaborated by or on behalf of the applicant, purchaser and/or instructing party by third parties nor for any specifications of measurements, sizes and materials given in connection with such plan.

3. In case an assignment is given and the plans have not been made by the contracted party then he shall only be responsible for the sound and proper assembly and for the soundness of the materials used, all this however excepting parts that were explicitly prescribed in the application as regards trade mark and treatment of materials.
4. Should the applicant desire to transfer responsibility for the plan made by or on behalf of him onto the contracted party, then the latter shall only be held to accept such responsibility if he has had enough time to make a decision as regards this assignment whereby the contracted party must have been capable of examining and verifying the calculations of the entire plan and he has been provided with any and all relating data and documents. The contracted party cannot be required to do this free of charge unless the application already showed that the instructing party wishes to transfer responsibility to the contracted party.
5. In case the instructing party makes available material or parts to be included or assembled, then the contracted party shall be responsible for sound and proper inclusion or assembly, however never for the materials or parts themselves. The contracted party is not liable for any loss or damage because of death or bodily injury, consequential damage or loss or damage on any other basis that is connected with the materials or parts for inclusion or assembly, made available by the instructing party (their possible defectiveness) irrespective of inclusion or work being done on them by the contracted party or third parties. The instructing party shall indemnify the contracted party against any and all claims for compensation of damage or loss brought about by staff of the contracted party and/or third parties, including loss or damage from or as a result of product liability.

### Article 7. AWARDING OF CONTRACT

1. The agreement shall be effected by informing the contracted party that he has been awarded the assignment. In case this is done by word of mouth, the instructing party shall confirm this announcement in writing thereby stating the date of the announcement; such confirmation shall constitute full evidence of the conclusion of the agreement.
2. In the event that within seven days no written announcement has been made as regards the awarding of contract to contracted party by the instructing party, the contracted party shall confirm the assignment in writing to the instructing party thereby stating the date of the announcement. The contents of this confirmation of assignment shall be binding upon the instructing party unless the instructing party disputes its correctness within 14 days from the forwarding of such confirmation of assignment. In the event that the instruction party has not reacted within 14 days from the receipt of the confirmation of assignment, the assignment shall be considered to be irrevocable.
3. Any and all price changes shall be settled in accordance with the provisions included in article 5 paragraph 5, unless the announcement of the awarding of contract is done on a day after the ultimate date of validity of the awarding of contract (article 5, paragraph 1), in which case the price changes occurring as of the final day of validity shall be settled.

### Article 8 AMENDMENTS

1. Amendments made to and deviations from these General Terms and Conditions shall only have effect in the event that they are agreed upon in writing between tenderer/contracted party and applicant/instructing party.

### Article 9 DISSOLUTION

1. In the event that the instructing party does not, not in due time or not properly fulfill the obligations that arise for him out of any agreement concluded with the contracted party on the basis of these Terms and Conditions, as well as in case of suspension of payments, application or granting of a moratorium, (involuntary) liquidation order with regard to the enterprise of the instructing party, or the demise of the latter or in case the instructing party can no longer dispose of his assets because of seizure or otherwise, the contracted party shall be entitled to dissolve the Agreement or any parts thereof that must still be performed without any notice of default or judicial intervention being required and to take back any items delivered by him but not yet paid notwithstanding his right to claim compensation of any possible loss (of profits) and other damage that might arise.
2. In the cases mentioned in paragraph 1, any and each claim that the contracted party might have chargeable to the instructing party, shall be forthwith exigible.
3. Should any of the circumstances mentioned in paragraph 1 of this article occur, then the instructing party shall also be entitled to dissolve the Agreement. The instructing party shall then be entitled to take back any material delivered by him in so far as not yet paid for. With regard to compensation of loss or damage, the amount mentioned in paragraph 4 of this article shall be due, unless parties explicitly agree differently in writing.
4. In the event that the dissolution, as mentioned in paragraph 3, is consented to by the contracted party, the instructing party shall owe the contracted party an amount that is equal to the costs incurred up to that point in time, increased by 25% on the remaining amount of the quotation stated when making the offer, unless parties agree differently in writing.

### Article 10 DELIVERY PERIOD

1. The delivery period shall become effective as soon as the agreement has been concluded and any and all data necessary for the commencement of the execution of the work are in the possession of the contracted party. The instructing party shall be obliged to inform the contracted party in due time of any and all data and choices made necessary to progress the work.
2. The delivery periods stated cannot be considered to be deadlines (terms to be observed on penalty of forfeiture of rights). So the contracted party shall not be in default by operation of law because of mere excess of such term and the instructing party cannot proceed and dissolve the agreement in question. Therefore, the contracted party shall first have to be declared to be in default.

#### Article 11 CHANGES TO CONTRACTED WORK

1. Any and all changes to contracted work, either through special instruction given by the instructing party or as a result of a change (changes) made to the construction or caused by data supplied not being in correspondence with the actual execution of the construction, will be payable as over-adjustment in case this results in extra costs and in so far as it (they) result in less costs as under-adjustment.
2. Over and under adjustments will be settled in accordance with reasonableness and fairness and this independent of the obligation to pay the principal sum.

#### Article 12 NON-ATTRIBUTABLE SHORTCOMING

1. In the event that the normal execution or actual delivery of the work is obstructed because of a non-attributable shortcoming, the contracted party shall be entitled to exceed the agreed delivery period with at least the duration of the non-attributable shortcoming.  
Non-attributable shortcomings shall include *i.a.* work stoppage, interruption or breakdown of equipment or plant, plant and/or office occupation and force majeure of suppliers.  
Non-attributable shortcoming shall also mean any fact or circumstance occurring where the contracted party cannot in all reasonableness be required to carry out the work.

#### Article 13 EXECUTION OF THE WORK

1. Unless agreed differently in writing, the instructing party shall be obliged, and this on penalty of compensation of loss, damage and costs, to ensure:
  - a. that the location where the items, materials and/or instruments to be assembled are stored or where they must be delivered, is such that they cannot be damaged in any form or manner whatsoever or cannot be taken away;
  - b. that the location where delivery and/or assembly must take place can be accessed unobstructed and sufficiently and furthermore that cooperation takes place in every way or manner so as to enable speedy delivery, assembly and/or finishing;
  - c. that in the event that hoists, elevators or any other means of transport must be used, these will be made available, driven by and for the account of the instructing party  
The equipment to be used must fulfill the government prescriptions in force at the time of use. Any damage arising from their use shall be payable by the instructing party, unless it is ascertained that the contracted party is to blame;
  - d. that (sub)floors are made available without carrying any chalk and concrete rests and dirt and loose parts, and when necessary, are completely level and horizontal and cleaned by having swept the (sub)floors unless agreed differently in writing;
  - e. that the space in which work must be carried out, is provided with electricity, air, water and when necessary heating;
  - f. that, in case others also have to carry out activities in the space concerned, such activities must have ended before the contracted party commences his activities so that the latter can carry out his work unobstructed;
  - g. that in the case of rebuilding activities and/or renewal of the interior, the business space must be closed to the public during the time the activities are carried out.

#### Article 14 RISK AND STORAGE

1. Unless the contracted party has declared differently in writing, the risk of the items, materials and carried out activities shall be for the account of the instructing party as of the moment of supply of these items and materials on the place of their intended use, respectively as of the time of commencement of activities.
2. In the event that supply cannot take place at the intended time through no fault of the contracted party, the items will be stored for the account and the risk of the instructing party.
3. In the event that the instructing party is behind as regards settling any payment term, the contracted party shall be entitled to store the items for the account and risk of the instructing party and to postpone the first actual delivery until any and all payment terms due have been settled.

#### Article 15 RETENTION OF TITLE AND UNDISCLOSED PLEDGE

1. Any and all items brought to or near the location of work shall remain the property of the contracted party until the instructing party has settled fully his payment obligations, which will include payment obligations as regards over-adjustments, extra costs incurred and interim price increases. In addition, the contracted party shall deliver, now and in the future, any and all items on the basis of the agreements concluded and still to be concluded with the instructing party subject to an undisclosed pledge on all such items, such pledge being in favour of the contracted party. When the retention of title has lapsed, the items shall be delivered to the instructing party encumbered by an undisclosed pledge in favour of the contracted party. Such rights of pledge shall form an additional security for the payment of all that the contracted party can claim from the instructing party on any basis whatsoever.
2. The contracted party must forthwith be informed of any possible intervention of any third parties by the instructing party.  
Any costs and/or damage or loss, arising from such non-informing, shall be attributable to the instructing party.

#### Article 16 PAYMENT

1. Unless agreed differently in writing by the parties, payment shall be made as follows:  
30 % when awarding the assignment  
30 % when commencing activities  
30 % when commencing construction activities  
10 % when assembly is ready or when taking into use before assembly is ready

2. The instructing party will be allowed to withhold 5% from the contract price as security in connection with the guarantee referred to in article 17 paragraph 1 and for small parts of the work that might possibly not have been delivered after completion. This amount of money withheld shall be exigible as soon as the contracted party has fulfilled the guarantee obligation referred to.
3. However, should it appear that the completed items must be stored, then the third and fourth payments (if so desired reduced by 5% of the contract sum for such guarantee) shall be exigible at the moment the items have been made ready for delivery, however, thereby subtracting the assembly costs to be determined in more detail. Under these circumstances, the assembly costs shall be exigible when the first delivery of the work takes place.
4. Any and all payments must be made at the office of the contracted party or into an account to be designated by the latter and this without any deduction or settlement of debt(s). In the event that the instructing party has not settled any payment term within ultimately fourteen days after the due date, then the latter shall be in default without any notice of default being required.
5. The instructing party shall owe interest compensation of 1% on the invoice amount for each month or part of a month with which the due date is exceeded and this as of the day that payment must have been made.
6. The instructing party shall be obliged, by the mere conclusion of the agreement to compensate extra-judicial collection costs to the level of the amount due pursuant to the latest applicable collection rates for attorneys at law irrespective of the interest compensation referred to in article 16 paragraph 5.

#### Article 17 GUARANTEE

1. After the first delivery after completion of the work a guarantee term of three months shall apply.
2. For manufacturing defects that according to their nature can (still) be discovered after a longer period of time, a guarantee term of one year after the first delivery after completion shall apply.
3. In the event that partial delivery of the work takes place, then the guarantee periods shall start after each such partial delivery has taken place.
4. Guarantee obligations shall lapse with regard to the parts of the work that are defective in case repair works or other activities have been carried out by others with regard to such parts without the written consent of the contracted party.
5. No guarantees shall be applicable with regard to constructions or materials prescribed by the instructing party or with regard to material or share in the work delivered by the instructing party or on his instructions by third parties, unless carried out with the explicit consent of the contracted party.
6. Repairs or changes in connection with paragraph 5 will only be carried out by the contracted party on the account of the instructing party unless the contracted party had given his consent in accordance with the provisions included in paragraph 5.
7. In the event that a room in which the work will be installed is put into use before the first delivery after completion, this will be entirely for the risk of the instructing party.
8. No guarantee will be applicable with regard to glass, colouring of wood and minor colour deviations of wood and other materials.
9. Guarantees shall only be applicable if use is in accordance with the use that the work was intended for according to the assignment; in case intended use has not been provided for, then guarantees shall only apply in case of normal use.
10. Guarantees only apply under normal circumstances. These include: ensuring sufficient humidity in the atmosphere, non-exposure to excessive humidity or dryness, coldness or heat etc.

#### Article 18 COMPLAINTS

1. Complaints can only be made valid in case the contracted party is informed within at most 7 days from the discovery of the defect(s), thereby clearly describing the discovered defect(s), failing which complaints need no longer be handled.

Complaints can only be made valid with regard to items that immediately prior to the moment of discovery of the defect(s) were still in the state in which they have been delivered.

#### Article 19 APPLICABLE LAW AND COMPETENT COURT

1. All offers, agreements and the execution thereof are exclusively governed by the laws of the Netherlands.
2. All disputes, insofar as they exceed the jurisdiction of the sub-district court, shall be settled by the court in the district where the seller has its registered office.

#### Article 20 LIMITATIONS OF LIABILITY

1. Liability of the contracted party with regard to damage or loss caused by defects of the delivered object(s) shall be limited to the net invoice amount of the delivered object(s).
2. The contracted party shall never be liable for any indirect damage or loss including loss suffered by of third parties or loss of profits.
3. The contracted party shall not be liable either for loss or damage in connection with the constructions or materials prescribed by the instructing party or by material or share in the work delivered by the instructing party or on his instructions by third parties.

#### Article 21 FINAL PROVISION

1. These General Offer, Delivery and Payment Terms and Conditions may be referred to as: "General Offer, Delivery and Payment Terms and Conditions of the interior building section of the Central Furniture Manufacturers' Association" filed in Haarlem (The Netherlands) on 2 February 2010 under number 3/2010.