



## GENERAL TERMS AND CONDITIONS

These are the general terms and conditions of HATENBOER-WATER B.V., a limited liability company in Rotterdam, The Netherlands, registered at the Rotterdam Chamber of Commerce under number 24153774, where these conditions are deposited.

### 1. Applicability

1. These general conditions shall apply to all tenders and quotations originating from, agreements made with and orders placed with HATENBOER - WATER B.V here after referred to as HW.
2. In these conditions, the term 'purchaser' shall refer to each and any legal entity or person who has entered into or who may wish to enter into an agreement with HW.
3. Any chance and / or modification to these conditions shall apply only where these are expressly agreed to in writing by HW.
4. Any reference by the purchaser to his own conditions of purchase or any other conditions, whatsoever where these are to be found, shall not be considered to be acceptable except where these are expressly agreed to in writing by HW.
5. Once the purchaser has been advised by HW of these general conditions, any subsequent agreements entered into by HW and the purchaser shall be considered to be subject to these conditions.

### 2. Tenders, quotations and agreements

1. All tenders and quotations made by HW, either in the form of price lists, printed material, brochures or by other means, including tenders and/ or quotations or statements made verbally by representatives or employees of HW shall always be without engagement.
2. An agreement between HW and purchaser can be considered to have been entered into only after it has been confirmed in writing by HW of persons having authority to do so on their behalf.
3. In entering into such an agreement, HW is authorized to require that the purchaser furnish material security for any amount for which the purchaser is or may be indebted to HW. Any refusal to furnish such security shall entitle HW to refuse an order.
4. In supplying goods, services or installations, HW retains the right to assign the work to a third party and charge purchaser with any costs thereof.

### 3. Prices

1. Unless otherwise stated, all prices and tariffs are quoted in Euro's (€) and do not include value added tax or other taxes or charges levied by governmental authorities at the time of acceptance of the order.
2. Unless expressly agreed in written confirmation of an order, the following costs are not included in the quoted prices:
  - a. any exceptional costs for customs clearing and / or duties;
  - b. any assembly and / or installation costs;
  - c. any traveling and accommodation costs incurred by personnel of HW in the execution of the order;
  - d. any freight costs and freight insurance costs other than those agreed to for the return of goods or materials;
  - e. packaging and handling charges.
3. In the case of orders of a value lower than € 455 (excluding VAT), freight costs plus an administrative charge of € 11,50 may be charged.
4. Prices are quoted on the basis of the costs applicable at the time of quotation. In the event of cost increases caused by increases in the cost of raw materials or other materials, parts, transport, wages, insurance premiums, taxes and customs duties, or increases in cost caused by currency fluctuations etc. after the date of the quotation, HW retains the right to increase prices accordingly.
5. That which has been determined in the previous paragraph is also applicable in the event that the factors resulting in an increase in costs could have been predicted at the time of the agreement being made.
6. In the event that a cost increase in accordance with paragraph 4 should be greater than 10% the purchaser retains the right to cancel the order within 5 working days of that increase.

### 4. Delivery, delivery period and execution of works

1. Quoted delivery periods shall never be seen as being statutory limits, unless otherwise expressly agreed. In the case of late delivery, HW shall be notified in writing of being in default and shall be granted a reasonable final period in which to make delivery.
2. The execution of works or deliveries shall be considered to have been fulfilled when this has been carried out on one occasion by HW. The receipt for the goods or services signed by the purchaser or his representative shall serve as a full and complete acknowledgement of receipt of this goods or services. In the event of non-acceptance, any traveling costs, storage and any other costs shall be at the expense of the purchaser.
3. In the event that information is required in order to carry out any testing or examination works described in the order, the non-availability, late or incomplete supply to HW of information as defined in the agreement shall cause the works to be considered as having been accepted by the purchaser.
4. In the event that it has been agreed that an order be supplied or works executed in phases, HW reserves the right to postpone completion of the following phase until the preceding phase has been approved in writing by the purchaser and the purchaser has fulfilled all his financial obligations in respect of that phase.
5. In the event that the purchaser neglects to carry out any action that may be required of him in the delivery of goods for an order, any goods that are ready for dispatch are entirely at the purchaser's risk from the moment that they are ready for dispatch.
6. In the event of deliveries in phases, HW shall always retain the right to require that the purchaser furnishes sufficient security prior to further dispatches being made. Any refusal to comply with this entitles HW to treat the agreement as having been rescinded, without prejudice to their rights to the reimbursement of costs, damages or repayment for consequential loss of profits.

### 5. Retention and transfer of title

1. The title to any works carried out goods delivered remains the ownership of HW until the purchaser has fulfilled all his financial and other obligations.
2. The purchaser does not have the right to transfer to third parties either as collateral or as the ownership of title to any works carried out or goods delivered, or permit the use of these by third parties until the purchaser has fulfilled all his financial and other obligations to HW, except by reason of the execution of his business in the resale of these works or goods.
3. In the event that the purchaser does not fulfill his obligations under the agreement, or fulfills them late or unsatisfactorily or in the event of circumstances referred to in article 6.1, HW shall retain the right, without judicial intervention, to render unserviceable any works carried out and/or take back goods delivered. To this end, the purchaser irrevocably authorizes HW to obtain access to the location (s) in which the works carried out or goods delivered are situated, in default of which the purchaser shall forfeit a penalty of € 455 per day, which shall be payable on demand.
4. In the event that HW has actually rendered the executed work unserviceable or taken back the delivered goods, the agreement shall be rescinded in accordance with the conditions shown in article 6.1.

5. The purchaser is obliged to notify HW in writing immediately in the event of third parties claiming rights on works carried out or goods delivered by HW, which have not (yet) become the ownership of the purchaser, or in the event of any circumstance as referred to in article 6.1. If it appears at a later stage that the purchaser has not fulfilled this obligation, he shall be liable to pay on demand a penalty of 15 % of the amount owed to HW, exclusive of VAT, with a minimum of € 225 .

### 6. Cancellation and termination of agreement

1. HW shall retain the right to cancel immediately agreement (s) with the purchaser without judicial intervention, in the event that the purchaser:
  - a. is declared bankrupt, files for bankruptcy or receivership, or is placed under administration;
  - b. does not fulfill an obligation (to pay) under the agreement, or fulfills it late or not completely;
  - c. determines to liquidate and/or close down his business;
  - d. loses the full management over his property, or if the purchaser is a natural person, is placed under legal restraint, or in the event of his death.
2. In the event of cancellation of agreements as referred to above, all claims of the purchaser shall be payable on demand; furthermore, HW shall be entitled to claim full compensation for damages, loss of profits and/or interest.
3. The 'loss of profits' referred to above shall consist of at least 15 % of the agreed price, with a minimum of € 225 (exclusive VAT) except where evidence to the contrary is available; the 'loss of interest' referred to above shall be in accordance with current legal commercial interest rates.

### 7. Transfer of risk

1. All risks of the transport of goods delivered or to be delivered shall rest with the purchaser, with regard to direct and/or indirect damages.
2. Without prejudice to that which has been determined in the previous paragraph, the works executed and/or goods delivered by HW shall be at the risk of the purchaser from the time of execution and/or delivery.

### 8. Guarantee

1. HW shall comply with all agreements to the best of its knowledge and abilities.
2. HW shall provide a one year guarantee on all goods produced by HW. For those goods/materials not produced by HW, HW shall provide a guarantee for defects in manufacturing and materials in accordance with the terms stated by the manufacturer, for a period to be determined later and which shall commence at the time of delivery and/or installation.
3. Claims may only be made under the guarantee as referred to in paragraph 2 providing that the goods delivered by HW are used and operated according to the instructions and technical specifications as supplied to the purchaser by HW (or the manufacturer).
4. In the event of repairs and deliveries resulting from defects in manufacturing and/or materials, no charge shall be made if these take place at locations within the Netherlands.
5. Any obligations under the terms of a guarantee shall no longer be valid in the event the works and/or deliveries:
  - a. are installed by the purchaser or by third parties;
  - b. are modified and/or repaired by the purchaser or by third parties;
  - c. are used for purposes other than those for which they are intended;
  - d. are treated or maintained by the purchaser in a way which, in the judgment of HW is unsuitable, this also to include noncompliance with the conditions referred to in article 15 paragraph 2;
- e. without explicit prior notice to HW are connected by the purchaser to equipment or parts supplied by third parties. Furthermore, in the event that a defect is the result of the failure of the electricity supply, and/or equipment which has been connected to the goods delivered and which has not been built in accordance with the manufacturer's specifications, or is the result of being struck by lightning, or other external cause.
6. The period of guarantee on repairs carries out by HW, or third parties nominated by HW, shall be one month, commencing on the day following the date on which the repairs have been carried out.
7. In the event of defects being found in repairs that have been carried out, the purchaser shall be entitled to have these rectified free of charge, provided he notifies HW within the guarantee period. The guarantee on repairs shall not include parts.

### 9. Liability

1. HW shall only accept liability for damage suffered as a result of demonstrable defects in services or goods delivered insofar as such a liability is covered by their insurance, up to the maximum amount paid by the insurer.
2. In any event that the insurer decides that no payment should be made, the liability shall be limited to the agreed value of the invoice, excluding VAT.
3. In the event that the purchaser does not render the cooperation to HW as referred to in article 15, under no circumstances can the purchaser claim damages or derive any other rights in the case of HW's noncompliance with the agreement.
4. HW shall not be liable for the purchaser's choice of deliveries and materials and shall not guarantee that the delivered goods and materials are suitable for the purpose intended by the purchaser.
5. The limitations to liability included in this article are not applicable insofar as the damage is the result of a deliberate act or of gross negligence by HW.
6. HW is not liable for any kind of damage if one or more of the circumstances occur as described in article 8, paragraph 5.
7. Any liability for consequential losses, other indirect losses and losses resulting from liability in respect of third parties is excluded.
8. HW is accordingly excluded from liability for:
  - a. infringement of the patents, licenses or other rights of third parties arising from or the use of information provided by the client;
  - b. damage or losses caused in any way to basic materials, semi-finished products, models, tools and other articles or materials provided by the client, with the exception of extreme negligence.

### 10. Payment

1. Unless agreed otherwise in writing, all payments shall be made within 30 days of the date of the invoice, either in cash or by transfer to a bank or giro account to be designated by HW.
2. All payments shall be made without reference to debits and credits. The purchaser shall not defer payment for any reason.
3. In the event that HW does not receive payment of the invoice from the purchaser within the period referred to in the paragraph 1, the purchaser shall be obliged to pay interest on this amount, in accordance with the legal commercial interest rate, valid for the period that the purchaser is in default, whereby the period of indebtedness shall be calculated in full months.
4. In the event that payment of an invoice is not received within the period referred to in paragraph 1 and HW undertakes legal action with

the objective of obtaining payment from the purchaser, the purchaser shall be obliged to pay any due extra judicial collection costs incurred by HW which are not subject to judicial intervention/mediation. These costs are determined at a minimum of 15 % of the total sum to be paid (or part thereof), with a minimum of € 225 without prejudice to any possible costs of legal proceedings to be paid by the purchaser by court order.

5. All payments by or on behalf of the purchaser shall first be deducted from costs to be paid and then from the sum total.
6. In the event that the purchaser fails to pay for any part deliveries or for a phased delivery, HW shall be entitled to defer other orders or phases to be carried out for the period during which the purchaser remains in default, without prejudice to HW's right to definitively cancel order (s) and to demand payment of all outstanding invoices. In this case HW shall also be entitled to compensation as referred to in article 6.

### 11. Force Majeur

1. Any situations in which HW is unable to carry out the order according to the agreement, due to exceptional circumstances such as abnormally high absentee rate, strikes, work-ins, lockouts, fire, technical breakdowns, traffic obstructions or transport problems, lack of raw materials or other materials, failure to deliver by suppliers, for whatever cause, mobilization, martial law, riots or revolts, import or export restrictions and other governmental measures or regulations and further all circumstances which HW could not reasonably influence, shall be regarded as force major.
2. In the event of force major, HW shall be entitled to either suspend fulfillment of the obligations without judicial intervention for the total duration of the period in which the force major is in effect, or to cancel the agreements without being liable to pay any sort of compensation or penalty to the purchaser. HW shall be entitled to invoice the purchaser pro rata for any work executed or goods delivered.
3. In the event of deferment of more than 60 working days in the execution of an order, the purchaser shall be entitled to cancel the agreement, unless the specific circumstances of a case justify a shorter period. In such an event, the purchaser shall provide evidence of these circumstances.
4. In the event of cancellation of an agreement as referred to above, HW shall be entitled to demand payment of all work carried out/goods delivered and shall not be liable to payment of any form of compensation or penalty to the purchaser.

### 12. Claims

1. Complaints concerning visible defects in goods delivered or works carried out should be reported to HW within 24 hours of detection, and no later than 5 working days after delivery. The complaint shall be confirmed in writing or e-mail by the purchaser within 5 working days of receipt of the goods or execution of the works.
2. Complaints concerning malfunctioning of goods delivered or works carried out shall be reported to HW immediately upon detection and no later than 14 working days after delivery and in any case shall be reported promptly and in writing, so that HW is in a position to verify on site, or have verified the grounds of the complaint.
3. Claims referring to invoices shall be reported to HW by writing or e-mail within a maximum of five working days of the date of invoice.
4. After expiry of the period referred to above, the purchaser shall be deemed to have approved the deliveries/works executed and the invoices. No complaints-/claims will be considered after this period.

### 13. Cancellation

1. In the event of cancellation of a part of or a complete order by the purchaser a minimum cancellation fee of € 225 will be charged, which shall be calculated according to the following time schedule, and shall be based on the net purchase price:
  - a. 20 % Up to 30 days before the agreed delivery date;
  - b. 35 % 30 days or less before the agreed delivery date;
2. No consideration shall be given to requests for cancellation of a part or a complete order after (partial) delivery, or of goods produced especially for the purchaser.
3. Cancellations shall be in writing or by e-mail. The date of receipt of the letter shall be the date of cancellation.

### 14. Copyrights, privacy and transfer

1. HW shall reserve all rights to industrial and intellectual property as regards the goods supplied by HW and the inventions, drawings, models and copyright contained therein.
2. The purchaser is not permitted to rent, loan, copy, change or reproduce software/materials delivered by HW, without the express permission of HW. In the case of violation of the above, the purchaser shall forfeit a penalty of € 11.345 per violation, payable on demand; this shall not prejudice HW's right to rescind all current contracts and to demand compensation in accordance with article 6.
3. HW shall take all reasonable measures to ensure that all data provided to HW by the purchaser are used exclusively for the execution of an order. HW shall not communicate data to third parties without the written permission of the purchaser.
4. HW shall comply with reasonable instructions from the purchaser in guaranteeing the confidentiality of information.
5. The purchaser shall not be allowed to transfer his rights and/or obligations resulting from the agreement entered into with HW.
6. The transfer of rights and/or obligations shall only be possible after the purchaser has notified HW and has obtained explicit written permission from HW.

### 15. Cooperation of purchaser

1. The purchaser shall render promptly all co-operation, data and information which HW regards as necessary or useful for the execution of works commissioned or deliveries.
2. The purchaser shall ensure that the environment in which HW carries out its activities, or the place (s) where goods delivered are installed, comply with the safety requirements determined by HW, including accessibility, adequate electricity supply etc., and that these requirements are maintained throughout the duration of the installation/assembly.

### 16. Disputes

1. Dutch law shall apply to all agreements entered into with HW.
2. Any disputes between HW and the purchaser arising from agreements made between them shall be decided exclusively by the authorized court in the location where HW is situated, except where HW is desirous that the dispute is brought before the proper court in the place of residence or place of business of the purchaser.

Rotterdam, January 2011  
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