

NLB GENERAL TERMS OF SUPPLY AND PAYMENT

General terms of delivery and payment issued by the Metaalunie affiliate association Nederlandse Lifttechnische Bedrijven (NLB), deposited at the registry of the court of Utrecht on 29 march 2017 under number 82/2017. Published by Koninklijke Metaalunie, Postbus 2600, 3430 GA Nieuwegein.
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Article 1: Scope of application

- 1.1. These conditions are applicable to all offers made by a member of the Metaalunie affiliate association Nederlandse Lifttechnische Bedrijven (NLB member), to all contracts which it concludes and to all contracts which may result from such, subject in each instance to the NLB member's status as tenderer and/or supplier.
- 1.2. The NLB member applying these conditions is referred to as the contractor. The counterparty is referred to as the principal.
- 1.3. In the event of a conflict between the contents of the contract concluded between principal and contractor and these conditions, the provisions of the contract shall take precedence.
- 1.4. These conditions may exclusively be used by NLB members.

Article 2: Tenders

- 2.1. All tenders are without obligation.
- 2.2. If the principal provides the contractor with data, drawings and the like, the contractor may assume these to be correct and complete, and will make his offer on this basis.
- 2.3. The prices given in the tender are based on "ex works" delivery at the contractor's premises in accordance with Incoterms 2010. Prices exclude sales taxes and packaging.
- 2.4. If the principal does not accept the contractor's tender, the contractor has the right to charge all costs which he has incurred in the production of the tender to the principal.

Article 3: Intellectual property rights

- 3.1. Unless agreed otherwise in writing, the contractor retains the copyright and all industrial property rights over the tenders, and designs, images, drawings, test models, models, programs and the like provided by him.
- 3.2. The rights on the data specified in point 1 of this article remain the property of the contractor regardless of any expenditure made by the principal for the manufacturing thereof. This data may not be copied, used or passed on to third parties without the express prior permission in writing of the contractor. For each breach of this provision the principal shall be liable to pay the contractor a penalty charge of €25,000 with immediate effect. This penalty may be subject to a claim in law in addition to compensation for damages.
- 3.3. The principal must return the data provided to him specified in point 1 of this article on first request within a time limit set by the contractor. On breach of this provision the principal shall be liable to pay the contractor a penalty charge of €1,000 per day with immediate effect. This penalty may be subject to a claim in law in addition to compensation for damages.

Article 4: Advice and information provided

- 4.1. The principal may not derive any rights from advice and information acquired from the contractor where this does not relate to the order.
- 4.2. If the principal provides the contractor with data, drawings and the like, the contractor may assume these to be correct and complete when performing the contract.
- 4.3. The principal indemnifies the contractor against any claim by a third party concerning the use of advice, drawings, calculations, designs, materials, samples, models and such provided by or on behalf of the principal.

Article 5: Delivery time/execution period

- 5.1. Delivery times and/or execution periods are determined by the contractor on an approximate basis.
- 5.2. When determining the delivery time and/or execution period the contractor assumes that he can perform the contract under the circumstances known to him at that moment.

- 5.3. The delivery time and/or execution period applies only when agreement is reached on all commercial and technical details, all necessary data, definitive and approved drawings and suchlike are in the contractor's possession, the agreed payment or stage payments have been received and the conditions for the performance of the contract have been met.

5.4.

- a. If circumstances other than those known to the contractor at the time that the delivery time and/or execution period were determined arose, he may extend the delivery time and/or execution period by the time required to perform the contract under these circumstances. If the timing for the works cannot be adjusted within the contractor's schedules, these will be executed as soon as those schedules permit.
- b. In the event additional work is required, the delivery time and/or execution period will be extended by the time required by the contractor to supply or obtain the materials and components and to perform the additional work. If the additional work cannot be accommodated in the schedule of the contractor, the work will be performed as soon as the schedule permits.
- c. If the contractor's obligations are suspended the delivery time and/or execution period will be extended by the duration of the suspension. If the continuation of the work cannot be accommodated in the schedule of the contractor, the work will be performed as soon as the schedule permits.
- d. If weather makes work impossible the delivery time and/or execution period will be extended by the length of the period of delay.

- 5.5. The principal shall be liable for all costs incurred by the contractor as a result of a delay in the delivery time and/or execution period as specified in point 4 of this article.

- 5.6. Exceeding the stated delivery time and/or execution period shall in no instance give rise to compensation or termination of the contract.

Article 6: Risk transfer

- 6.1. Delivery is "ex works" at the contractor's premises in accordance with Incoterms 2010. The risk of the item is transferred at the moment that the contractor makes it available to the principal.
- 6.2. Notwithstanding the provisions of point 1 of this article the principal and contractor may agree that the contractor shall be responsible for carriage. In that instance the risks of storage, loading, carriage and unloading remain with the principal. The principal may take out insurance against these risks.

Article 7: Price changes

- 7.1. The contractor may charge the principal for an increase in cost price determining factors which arises after the conclusion of the contract.
- 7.2. The principal shall pay the increased price as specified in point 1 of this article at the contractor's choice of one of the following times:
 - a. when the price increase occurs;
 - b. together with the main contractual payment;
 - c. on the next agreed payment date.

Article 8: Force majeure

- 8.1. The contractor has the right to suspend compliance with his obligations if he is temporarily prevented by force majeure from fulfilling his contractual obligations to the principal.

- 8.2. Force majeure is considered to include circumstances where suppliers, subcontractors of the contractor or hauliers employed by the contractor fail to meet or are delayed in meeting their obligations, the weather, earthquake, fire, power outages, loss, theft or destruction of tools or materials, road-blocks, strikes or stoppages and import or trading restrictions.
 - 8.3. The contractor is no longer entitled to suspend compliance if the temporary inability to comply has lasted more than six months. After this period has elapsed the principal and the contractor may terminate the contract with immediate effect, but only for that part of the obligations which has not yet been fulfilled.
 - 8.4. If in the event that force majeure leads or will lead to the lasting impossibility of compliance, both parties are entitled to terminate the agreement with immediate effect for that part of the obligations which has not yet been fulfilled.
 - 8.5. The parties have no right to compensation for damages incurred as a result of suspension or termination under this article.
- 11.2. The principal shall ensure on its own behalf and at its own risk that:
 - a. The place where the contractor is to perform the work is accessible, inter alia via a surfaced road, specifically one which is passable to trucks and mobile cranes, and that there is an opening in the wall through which goods can be brought into the space in which assembly takes place;
 - b. the space in which the works are to be performed must be clean, dry, watertight and windproof and the floors negotiable by mobile scaffold towers in order to guarantee uninterrupted progress for the assembly process. The scaffold towers allow work to be performed up to 4 meters above the finished floor. For work at heights above 4 meters the principal must provide scaffolding, etc.;
 - c. adequate and safe tools for horizontal and vertical movement of heavy components required for the work are available in good time. The obligations of the principal include the provision of specified tools, and the installation and subsequent removal of work lighting and workfloors with protection at the places where technical lift work is to be carried out;
 - d. the electrical supply required for the execution of the contractor's work in good time and free of charge is available no more than 5 metres from the object being worked on;
 - e. during the execution of the technical assembly of the lift the contractor should have access to a readily accessible place close to the lift shaft which is dry, heated, lit, readily lockable and large enough, fitted out in accordance with the requirements of the law and regulations on working conditions. The space in question can serve as a shelter for the contractor's staff, their personal property and for the storage of the work materials and tools;
 - f. at the start of works all necessary safety provisions must be provided such as safety nets, edge protection, mounting points for safety lines and other precautionary measures including fencing off the ground or work floors below, and these must be maintained throughout the duration of the works. Everything required for safe and healthy working conditions for the fitters, in an environment that complies with the requirements set under the working conditions law and/or any other national or international legal provisions on the matter shall be made available to the employer and/or the site;
 - g. electrical power lines for power and lighting including fitted devices such as master switches, group switches and safety features are supplied in good time and connected to the machinery at the place specified by the contractor;
 - h. the lighting, emergency lighting and wall switches in the lift machinery space, lighting for the shaft and shaft accesses, as well as heating and ventilation of the lift machinery space and, if required, of the shaft, are supplied and fitted in good time. For the structural lift shaft and lift machinery space, "in good time" is understood to mean before the start of the installation of the lift on the building structure.

Article 9: Scope of the work

- 9.1. The principal must ensure that all permits, exemptions and other prerequisites for the work are obtained. The principal is required to provide the contractor on first request with a copy of the specified decisions.
- 9.2. The price for the work does not include:
 - a. the costs for groundwork, piling, cutting, breaking, foundations, masonry, woodwork, plastering, painting, wallpapering, repairs or other construction work and work on central heating installations and the like;
 - b. the costs for connection of gas, water, electricity, telephone or other utilities;
 - c. the costs of preventing or limiting damage to objects beside or close to the work;
 - d. the costs of horizontal and vertical transport on site;
 - e. the costs for removal of material, construction materials or waste;
 - f. the costs of installing and removing safety equipment;
 - g. the costs of supplying and installing anchor rails, lift beams, threaded tubes and anchors;
 - h. the costs of making, supporting and where required sealing of openings in architectural structures;
 - i. travel and subsistence expenses.

Article 10: Changes to the work

- 10.1. Changes to the work result in each instance in reduced or additional work where:
 - a. there is a change to the design or specifications;
 - b. information provided by the principal is found to be incorrect in practice;
 - c. estimated quantities are inaccurate by more than 10%.
- 10.2. Additional work is calculated on the basis of the price-determining factors as they stand at the time that the additional work is carried out.
Reduced work is calculated on the basis of the price-determining factors as they stood when the agreement was concluded.
- 10.3. The principal is required to pay the price of the additional work as given in point 1 of this article at the contractor's choice of one of the following times:
 - a. when the additional work arises;
 - b. together with the main contractual payment;
 - c. on the next agreed payment date.
- 10.4. If the value of the reduced work exceeds that of the additional work, the contractor may charge the principal 10% of the difference in the final invoice. This provision does not apply to reduced work at the contractor's request.

Article 11: Performance of the work

- 11.1. The principal shall ensure that (construction) works and/or deliveries performed by or on behalf of third parties which do not form part of the contractor's work, are carried out in such a way and in such time that the performance of the work is not delayed and the contractor can carry out its work undisturbed and at the agreed times. If any delay as referred to in this article arises nonetheless, the principal should notify the contractor of this forthwith.

- 11.3. Should the requirements in 11.2 (f) not be met, the contractor indemnifies the contractor for the costs incurred as a result, expressly including costs resulting from any penalties applied and/or instructions given by the labour inspectorate.
- 11.4. The contractor is not liable for supplies, resources, materials, tools and components, such as machines, scaffolding, staging, vehicles, lifts, ladders and the like, which are made available by the principal himself.
- 11.5. The principal bears the risk and is liable for damage in connection with loss, theft, fire and damage to goods owned by the contractor, the principal and third parties, such as tools, work materials or equipment used during the work, which is located at the place where the work is carried out or in another agreed place.
- 11.6. The principal is required to take out adequate insurance against the risks specified in point 2 of this article. The principal should also provide insurance for the operating risks of the equipment to be used. The principal should provide the contractor on first request a copy of the insurance policy or policies and evidence that the premiums have been paid. In the

event of a loss the principal is required to inform the insurer immediately for further handling and settlement.

- 11.7. If the principal fails to meet his obligations as described in the points above of this article with the result that the execution of the works is delayed, the works will be carried out as soon as the principal meets his obligations and the contractor's schedule permits. The principal is liable for losses incurred by the contractor as a result of the delay.

Article 12: Delivery of the work

- 12.1. In this article, delivery/commissioning is understood to mean the complete or partial handover of the work by the contractor to his contractual principle in accordance with article 12.2.
- 12.2. The works is considered to have been delivered in the following cases:
- if the principal has approved the work;
 - if the work has been put into service by the principal. Should the principal put part of the work into service then that part is considered to have been delivered;
 - if the contractor has informed the principal in writing that the work has been completed and the principal has not made it known in writing within 14 days of notification whether or not the work has been approved;
 - if the principal does not approve the work on the grounds of minor faults or missing components which can be repaired or supplied within 30 days and which do not prevent the commissioning of the work.
 - the work is approved by a testing authority.
- 12.3. Should the principal not approve the work then he is required to make this known to the contractor in writing stating his reasons. The principal must still give the contractor the opportunity to make the work suitable for delivery.
- 12.4. The principal releases the contractor from claims by third parties for damage to undelivered parts of the work caused by the use of parts of the work already delivered.

Article 13: Liability

- 13.1. In the event of a culpable failure the contractor shall continue to be required to meet his contractual obligations.
- 13.2. The contractor's obligation to make compensation, on any legal grounds whatsoever, shall be limited to damage against which the contractor is covered by an insurance policy taken out by him or on his behalf, but shall never exceed the sum paid out by this insurance for the instance in question.
- 13.3. If, for any reason whatsoever, the contractor cannot invoke the limitation in paragraph 2 of this article, the obligation to pay damages will be limited to a maximum of 15% of the total contract sum (excluding VAT). If the contract consists of parts or partial deliveries, the obligation to pay damages is limited to a maximum of 15% (excluding VAT) of the contract sum for that part or that partial delivery.
- 13.4. No compensation shall be payable for:
- consequential loss. Consequential loss shall be understood as including loss of business, loss of production, loss of profits, transport costs and travel and subsistence expenses. The principal may take out insurance against this damage if available;
 - damage to property in the care, custody or control of the insured owned by third parties. This damage is taken to include damage caused by or occurring during the execution of the to items which are being worked on items located in the vicinity of the works. The principal may take out insurance against this damage if desired;
 - damage caused deliberately or recklessly by servants, agents or non-management staff of the contractor.
- 13.5. The contractor is not liable for damage to material supplied by or on behalf of the principal as a result of improper treatment.
- 13.6. The principal indemnifies the contractor against claims by third parties on the grounds of product liability as a result of a fault in a product supplied by the principal to a third party which consists of or includes products and/or materials supplied by the contractor. The principal undertakes to pay all damages incurred by the contractor in this respect including the (complete) costs of defence.

Article 14: Guarantee and other entitlements

- 14.1. Unless agreed otherwise in writing the contractor guarantees the proper performance of the agreed works for a period of six months after delivery. This period is extended to 12 months if within two months after delivery/commissioning of the installation the principal concludes a maintenance contract with the contractor. If a different guarantee period is agreed, the remaining points of this article shall remain applicable.
- 14.2. If the contracted work has been performed improperly, the contractor shall choose whether he executes it again correctly or credits the principal for a commensurate part of the invoice amount. Should the contractor choose to execute the work correctly, he shall himself determine the manner and times of execution. If the contracted work consist in whole or in part of working on material supplied by the principal, then the principal should supply new material on its own account and at its own risk.
- 14.3. Components or materials to be replaced or repaired by the contractor must be sent to the contractor by the principal.
- 14.4. The principal shall be liable for:
- all transport or carriage costs;
 - costs of disassembly and assembly;
 - travel and subsistence expenses, if the installation is located outside the Netherlands.
- 14.5. The principal must in all cases offer the contractor the opportunity to repair any fault or to repeat the procedure.
- 14.6. The principal may only invoke the guarantee after he has fulfilled all his obligations to the contractor.
- 14.7.
- No guarantee shall be give should defects be the result of:
 - improper use;
 - maintenance not performed or performed incorrectly;
 - installation, assembly, alteration or repair by the principal or by third parties;
 - faults in or unsuitability of items supplied by or specified by the principal;
 - faults in or unsuitability of materials or tools used by the principal;
 - No guarantee is given on:
 - items supplied which were not new at the moment of delivery;
 - the testing of and repairs to the principal's items;
 - components which are guaranteed by their manufacturer.
- 14.7. The provisions of points 2 to 7 of this article shall apply correspondingly for any claims by the principal on the grounds of non-performance, non-compliance or any other grounds.
- 14.8. The principal may not assign rights granted under this article.

Article 15: Obligation to make complaint

- 15.1. In the event of a fault in the work the principal may make no claim on that basis unless he has made a complaint to the contractor within two months of discovering the fault or the point at which he would reasonably be assumed to have discovered the fault.
- 15.2. The principal must make any complaints concerning the sum invoiced in writing before the due date of the payment, on pain of the lapsing of all rights. If the payment term exceeds thirty days, the principal must have complained in writing within thirty days of the invoice date.

Article 16: Uncollected goods

- 16.1. The principal is required to collect the goods which are the subject of the contract on conclusion of the delivery time and/or execution period at the agreed place.
- 16.2. The principal shall cooperate as far as can reasonably be expected to ensure that the contractor is in a position to make delivery.
- 16.3. Uncollected goods shall be stored for the principal at his own risk.
- 16.4. In the event of a breach of points 1 and/or 2 of this article the principal shall be liable to pay the contractor a penalty of €250 per day to a maximum of €25,000. This penalty may be subject to a claim in law in addition to compensation for damages.

Article 17: Payment

- 17.1. Payment is to be made at the registered offices of the contractor or into an account to be indicated by the contractor.
- 17.2. Unless otherwise payment shall be made as follows:
 - a. cash for counter sales
for payment by instalments:
 - 30% of the total price on order;
 - 35% of the total price before the start of assembly;
 - 15% of the total price after 50% progress on assembly;
 - 20% of the total price before the end of assembly.
 - b. in all remaining cases within thirty days of the date of invoice.
- 17.3. If the principal fails to make payment as agreed he is required, instead of the agreed sum of money, to comply with a request from the contractor for a transfer in lieu.
- 17.4. The right of the principal to offset a claim against the contractor or suspend payment is excluded except in the event of the contractor becoming insolvent or entering statutory administration.
- 17.5. Regardless of whether the contractor has completed the contracted works, all sums due to him from the principal under the contract fall due or will fall due immediately if:
 - a. a payment deadline has been exceeded;
 - b. an application is made against the principal for insolvency or a stay of action;
 - c. attachment is levied on the client's goods or claims;
 - d. the principal (a company) is dissolved or liquidated;
 - e. the principal (a natural person) applies to be admitted to statutory debt rescheduling, is put under guardianship, or dies.
- 17.6. If payment is not made within the agreed term, the principal shall be liable to pay interest to the contractor. The rate shall be 12% per year or equal to the statutory interest rate if this is higher. When calculating the rate a part month shall be taken as a complete month.
- 17.7. The contractor has the right to offset debts to the principal against claims by companies linked to the contractor against the principal. The contractor is further authorised to offset claims on the principal against monies owed to the principal by companies related to the contractor. The contractor also has the right to offset debts to the principal against claims on companies linked to the principal. Related companies shall be understood as including companies which belong to the same group, as defined by article 2:24b of the civil code, and a holding as defined by article 2:24c of the civil code.
- 17.8. If payment has not been made within the agreed time the principal shall be liable to the contractor for all extrajudicial costs with a minimum of €75.
The costs shall be calculated on the basis of the following table (principal including interest):

on the first €3,000	15%
on the remainder up to €6,000	10%
on the remainder up to €15,000	8%
on the remainder up to €60,000	5%
on the remainder above €60,000	3%

The extrajudicial costs actually incurred shall be charged if these are higher than the sum calculated as above.
- 17.9. If judgment is given in favour of the contractor in legal proceedings, all costs incurred in relation to these proceedings will be borne by the client.

Article 18: Security

- 18.1. Notwithstanding the agreed terms of payment, the principal shall be required at first request by the contractor and at its discretion to provide adequate security for payment. If the principal fails to comply within the time set, he shall immediately be deemed in default. In this event the contractor has the right to terminate the agreement and claim his losses from the principal.
- 18.2. The contractor shall remain the owner of goods supplied while the principal:
 - a. has not yet met his obligations under this or another contract;
 - b. has not yet settled claims which arise from a failure to comply with the aforesaid contracts, such as damages, penalties, interest and costs.

- 18.3. As long as the contractor retains the title of delivered goods, the principal may not encumber or dispose of them outside its normal business operations.
- 18.4. After the contractor has invoked retention of title, he may repossess the supplied goods. The principal shall cooperate fully with this.
- 18.5. The contractor has a lien and a right of retention on all goods in his custody currently or in future and for all claims on the principal which he has or may acquire with regard to another party that seeks their surrender.
- 18.6. If the principal has fulfilled its obligations after goods were supplied by the contractor in accordance with the contract, the title on these goods shall be retained if the principal has failed to meet its obligations under another contract concluded subsequently.

Article 19: Termination of the contract

If the principal wishes to terminate the contract without any question of default on the part of the contractor and the contractor accepts this, the contract shall be terminated by mutual consent. In this instance the contractor has the right to compensation for all its financial losses, such as loss of profits and costs incurred.

Article 20: Competent courts and applicable law

- 20.1. Dutch law is applicable.
- 20.2. The Vienna Convention (C.I.S.G.) is not applicable, nor any other international regulation from which exclusion is permitted.
- 20.3. Only the Dutch civil court with jurisdiction over the registered office address of the contractor shall rule on disputes. The contractor may deviate from this jurisdiction rule and apply statutory jurisdiction rules.