

Article 1 – General

In the text of these conditions the terms below have the meanings stated:

Gouda: Gouda Refractories B.V.

Contractor: the company or person with whom Gouda wishes to enter into or has entered into an agreement to carry out Work or supply.

Product(s): goods (such as materials and raw materials) supplied by the Contractor under the contract with the Contractor.

Activities: the services described in the agreement (e.g. assembly, maintenance, testing, advice and inspection) and all acts connected therewith which the Contractor carries out under the contract with Gouda.

Work: the results of the Activities.

Article 2 – Applicability

2.1. These conditions apply to all offers to Gouda and all contracts which Gouda enters into with the Contractor unless the parties have expressly agreed otherwise. Any general conditions used by the Contractor or a third party are inapplicable.

2.2. All contracts with the Contractor are subject not only to these general purchase conditions but also to the following:

- (a) all technical and administrative provisions and associated drawings, together with the reports and/or schedule(s) of changes, explanations and additions forming part of them;
- (b) the provisions of the main contract between Gouda and its client(s), in so far as the Contractor has been instructed to carry out Activities or supply Products in connection with it.

2.3. In so far as provisions from documents may conflict, the provisions of the applicable specific conditions will take precedence over the general conditions.

Article 3 – Formation of the contract

3.1. An offer issued by the Contractor is regarded as an irrevocable offer.

3.2. The contract is concluded as soon as Gouda has accepted the Contractor's offer. Any performance delivered by the Contractor before the Contractor has received a written confirmation of the instruction or any preparations for such performance are at the Contractor's own expense and risk.

3.3. Verbal promises by and agreements with employees or other persons under Gouda's control are not binding on Gouda until and in so far as it has confirmed them in writing. Gouda has power of attorney arrangements which will be supplied to the Client on request.

3.4. Changes to the contract will only be effective if they have been agreed in writing between Gouda and the Contractor.

3.5. Gouda has the right to annul the contract with Contractor free of charge if the Products have not been delivered or the Contractor has not started with the performance of the Activities. When a later annulment occurs, Gouda will compensate the Contractor for reasonable and demonstrable incurred expenses. Further compensation is excluded. The amount for such compensation shall never exceed the total amount of the respective contract.

3.6. The Contractor waives any right to terminate the contract.

3.7. The technical specification, the drawings forming part of it, reports, together with the reports and/or schedule(s) of changes, explanations and additions, are available for inspection by the Contractor at Gouda. The Contractor will be supplied with copies of these documents on request. The Contractor is deemed to have inspected the specification and all the drawings and to have obtained relevant documents and all other related information required by him and will have reported any deficiencies before the Contract is concluded.

3.8. If the Contractor discovers obvious deficiencies or missing items in the Contract and the associated documentation describing the Activities, the Contractor is obliged to point them out to Gouda immediately and the Contractor will request clarification before carrying out the Activities.

Article 4 – Performance of the Activities

4.1. The Contractor must complete the Activities within the agreed time. If the Contractor exceeds the agreed time, he is in default without further notice. Exceeding the time, for whatever reason, gives Gouda the right to compensation, together with the right to terminate the contract with the Contractor, at Gouda's sole discretion.

4.2. The period commences once Gouda has accepted the Contractor's offer in writing.

4.3. The Work has been delivered if it has been completed and all agreed or customary inspections and/or tests have been carried out, any defects identified have been rectified, all documentation has been handed over, the Contractor has reported them to Gouda melding and delivery has been confirmed by Gouda in writing.

4.4. The Contractor accepts all liability arising from delays in carrying out the Activities.

4.5. The Contractor must ensure that the permits, exemptions and/or approvals that must be issued by the competent authorities for the performance of the Activities are in fact issued, unless Gouda has undertaken in writing to ensure that they are issued.

4.6. The Contractor must ensure that the site where the Activities are being carried out is adequately guarded. The Contractor undertakes to record all the tools and auxiliary materials supplied for the implementation of the contract. In response to a request by or on behalf of Gouda, the Contractor will on each occasion promptly provide Gouda with a copy of the Contractor's records. If at any time it should turn out that those tools and auxiliary materials are no longer on the site, and the Contractor has not recorded that they have been removed in a regular manner, the Contractor will be liable for their absence and will reimburse Gouda for their (replacement) value.

4.7. Gouda reserves the right to suspend performance of the Activities for a period as to be determined by Gouda. Suspension by Gouda does not entitle the Contractor to any compensation. The Contractor remains obliged on demand by Gouda to carry out or resume carrying out the Activities.

4.8. After and during the performance of the Activities the Contractor is obliged to keep the site clean and hand it over clean, and to deal with packaging materials, rubble and waste in accordance with the requirements arising under the statutory provisions (such as environmental laws).

4.9. If waste is not removed on demand by Gouda, Gouda is at liberty to remove it at the Contractor's expense and risk.

4.10. The Contractor will refrain from performing activities for a client of Gouda and/or giving quotations and/or offers to a client of Gouda for additions, replacements or changes to the Work assigned by that client to Gouda.

4.11. The Contractor must ensure that an authorized representative of the Contractor who has a command of English is always present on the site.

4.12. The Contractor undertakes to comply with and observe all regulations, conditions and stipulations, including building site, health, safety, working conditions and environmental legislation, in so far as it relates to the Work to be carried out or Product to be supplied by the Contractor.

Article 5 – Delivery times and Products

5.1. Unless otherwise specified in writing, the agreed deadline for delivery or performance is fixed. If that date passes without the Contractor having delivered the Products, he is in default without further notice.

5.2. Delivery takes place without further costs for Gouda at the place stated by Gouda, in proper packaging and subject to submission of all the required documents, unless otherwise agreed for the case concerned. Every consignment must also be accompanied by a packing list showing a Gouda order number together with numbers and descriptions of the Products supplied. If Gouda has not stated a delivery place, delivery is deemed to be Duty Delivered Paid (DDP) Gouda's factory in Gouda according to the latest version of the ICC-Incoterms.

5.3. The Contractor must take back the packaging material on demand by Gouda.

5.4. If the Contractor offers Products to Gouda before the agreed delivery date without prior written approval by Gouda, Gouda need not accept them and can return them to the Contractor at the Contractor's expense.

5.5. The Products supplied must correspond completely to the quality and quantity asked for as stated in Gouda's confirmation of the instruction and must in any event meet Gouda's specifications. If these are not met, Gouda is entitled, with no requirement for notice of default, to return the Products at the Contractor's expense and/or to cancel the instruction wholly or partly. Gouda can also require the Contractor to replace or repair the Products, at Gouda's discretion, at the Contractor's expense. Products must be accompanied by the associated documentation. Gouda may reproduce this documentation for its own use.

GENERAL PURCHASE CONDITIONS FOR PRODUCTS AND SERVICES

5.6. Unless otherwise agreed, ownership and the risk of loss of and/or damage to the Product to be supplied pass to Gouda on delivery. The Contractor guarantees that Gouda acquires full and unencumbered ownership.

5.7. Gouda retains the right to suspend shipment of the Products. Such suspension does not entitle the Contractor to any compensation. The Contractor will not charge Gouda with (storage) costs resulting from a suspension of shipment of Products. The Contractor remains obliged to carry out or resume carrying out delivery of the Products on demand by Gouda.

Article 6 – Prices

6.1. The agreed prices are in euros excluding BTW (Dutch value added tax) and include all costs (e.g. those for transport, insurance, other taxes and levies (e.g. import and export duties), on site packaging facilities for personnel, import duties, storage, costs of removing and/or processing waste, costs for drawing and costing, supervision, certification, materials, machinery and equipment, and all other costs reasonably necessary to perform the Work or supply Products), unless expressly stated otherwise in the contract.

6.2. Prices cannot be altered, unless this has been agreed in the contract and the circumstances in which prices can be altered have been specified.

Article 7 – Invoicing and payment

7.1. Unless otherwise agreed in the contract, the price for the Activities will only be paid by Gouda once the Work has been delivered (as agreed in Article 4.3). The Contractor will draw up and submit a properly itemized invoice. Additional work or contract variations resulting in reduced costs will be dealt with by separate invoices or credit notes. Invoices will in any event include the following information:

- a clear description of the Products or Activities carried out and a reference to the Purchase Order number;
- the amount of turnover tax.

7.2. Unless otherwise agreed by the parties, Gouda will pay the invoices within 60 days of their receipt and approval.

7.3. If invoices (including any required appendices) require adjustment or have not been adequately itemized, the payment term will run from the date of receipt and approval of the corrected invoice.

7.4. Gouda is entitled to set off what it owes the contractor, whether or not due and payable, at any time pursuant to the contract against what the Contractor owes Gouda for whatever reason.

7.5. If the Contractor does not fulfil any obligation pursuant to the contract, including these general purchase conditions, Gouda is entitled to suspend payments to the Contractor.

7.6. Payment by Gouda does not imply any waiver of rights.

7.7. The Contractor will permit Gouda to have access to any of its accounts, books, records, correspondence, receipts, vouchers and other relevant documents and data in connection with the Product(s) and/or Work.

Article 8 – Quality and inspection of the Activities

8.1. The Contractor complies with the provisions of the contract and any technical specification forming part of it and also guarantees:

in the case of the Work that:

- (a) its quality and external condition are in accordance with what is stated in the contract and/or the technical specification forming part of the contract;
- (b) it is suitable for the purpose of which the Contractor was notified, can be deduced from the contract or can be expected having regard to Gouda's statements.

In the case of Products that:

- (c) their quantity, quality and external condition are in accordance with what is stated in the contract and/or the technical specification forming part of it;
- (d) they are in all respects identical with samples and/or models supplied by the Contractor and/or Gouda;
- (e) they are suitable for the purpose of which the Contractor was notified, can be deduced from the contract or can be expected having regard to Gouda's statements;
- (f) in all respects they meet relevant applicable requirements laid down in statutory rules or other government rules, and operating instructions and regulations laid down by Gouda applying at the time the Products are delivered, including in particular the so-called CE approvals.

8.2. Gouda is entitled to inspect the Work or Products and (internally) approve it/them at any time. The Contractor will cooperate fully in inspections, at no charge. If because of an act or omission by the Contractor an inspection is not or cannot be carried out at the time stated

by Gouda, Gouda will be able to recover any additional costs from the Contractor.

8.3. If approval of the Work or the Products is withheld, the costs of the inspection will be payable by the Contractor unless otherwise agreed in writing.

8.4. The Contractor can never derive any rights from the results of an inspection or the absence of an inspection, nor does this release the Contractor from any obligation.

Article 9 – Guarantee

9.1. The Contractor guarantees for a period of 5 years from the date on which the Work was delivered (as described in Article 4.3) that it is free from defects in design, materials and workmanship, is in accordance with the specifications and is suitable for its intended purpose. The Contractor will immediately and completely repair these defects free of charge on first being notified of them by Gouda. All additional costs, including costs of removal, repair and replacement, will be borne by the Contractor. After repair a new five-year guarantee period begins to run for the repaired defect.

9.2. The Contractor guarantees for a period of one year from the date of the delivery of Products that the Products supplied are free from defects in design, materials, workmanship, packaging and labelling, are in accordance with the specifications and are suitable for their intended purpose. The Contractor will immediately and fully repair these defects free of charge on first being notified of them by Gouda. After repair a new one-year guarantee period begins to run.

9.3. The guarantee periods stated in paragraphs 1 and 2 will be extended by the period that the Work or Products cannot be used for the purposes of the business owing to the defect covered by the guarantee.

9.4. The Contractor guarantees that the Work is in accordance with all applicable laws, rules, regulations, courses of conduct, guidelines and standards in the Netherlands, including, without limit, EU regulations in force when the contract is entered into or carried out.

9.5. The Contractor guarantees that the Products are in accordance with all applicable laws, rules, regulations, courses of conduct, guidelines and standards in the Netherlands, including, without limit, EU regulations in force when the contract is entered into or carried out.

9.6. The Contractor warrants that if desired it will carry out maintenance and repair work and supply the parts required for it, all at reasonable prices, for a period of ten years after the end of the period stated in paragraph 1. The Contractor also warrants that if desired it will supply the Products, at reasonable prices, for a period of ten years after the end of the period stated in paragraph 2.

Article 10 – Breaches and liability

10.1. Any breach of the Contractor's obligations gives Gouda the right, with no requirement for notice of default, to oblige the Contractor by registered letter or bailiff's notification to undo, at the Contractor's expense and risk, the breach and/or its consequences in a manner to be decided by Gouda, and/or to terminate the contract wholly or partly without the need for court proceedings, all at Gouda's option. In no respect does the foregoing diminish Gouda's rights in connection with the breach.

10.2. The Contractor is liable for and will indemnify Gouda in relation to every claim concerning loss or damage which is the direct or indirect consequence of the Contractor's failure to comply with the contract, or to do so in time or properly, or the Contractor's infringement of any other contractual or noncontractual obligation towards Gouda or third parties.

10.3. The Contractor will keep itself adequately insured at its own expense in relation to the Work, the Products, the materials and liability and will allow Gouda to inspect the policy/ies if it wishes to do so. On request the Contractor will provide proof of payment of premiums. If it wishes, Gouda will be named on the policy as a person having a joint interest.

10.4. The Contractor is liable for all loss or damage suffered by Gouda or third parties as a result of a defect in the Work or the Activities or a defect in the Products as a result of which they do not offer the safety that one may expect, as referred to in the national legal provisions concerning product liability, under EC law or on the basis of other applicable Dutch law. The Contractor will pay compensation in full for all loss or damage (including the judicial and extrajudicial costs actually incurred) suffered by Gouda or a third party as a result of such defect.

10.5. A Contractor who has failed to fulfil an obligation under the contract can only rely on the failure not being attributed to the Contractor, on his not being in default and on his not being obliged to pay compensation relating to the failure if the shortcoming is the fault of Gouda and the Contractor has notified Gouda without delay, and in any event before the time set for the fulfilment of its obligation, of the threat of the failure and the reason for it.

GENERAL PURCHASE CONDITIONS FOR PRODUCTS AND SERVICES

10.6. Gouda is entitled to terminate the contract immediately, wholly or partly, without further notice of default, by means of a written statement, with no obligation to pay the Contractor any compensation:

- (a) if the Contractor fails to fulfil his essential obligations fully and on time;
- (b) in the event of a moratorium or the liquidation of the Contractor, or if an application is made to the court for that purpose;
- (c) in the event of the sale or termination of the Contractor's business;
- (d) if the Contractor is placed under guardianship or put into administration;
- (e) on the death of the Contractor;
- (f) in the event of the dissolution of the Contractor, if the Contractor is an artificial person or partnership;
- (g) in the event of the attachment of a significant part of the Contractor's assets or of items intended to be used to carry out the contract.

10.7. The obligations referred to under Articles 4.1, 4.6, 4.7, 8.1, 8.2, 9.3, 9.4, 11, 12, 13, 14 of these general conditions are in any event regarded as obligations of an essential nature, as is a breach of Gouda's code of conduct.

10.8. In the event of termination as provided for in these general purchase conditions, all claims which Gouda has against the Contractor are payable immediately.

10.9. The provisions of this Article do not affect Gouda's other rights under the law and the contract, such as the right to compensation, including consequential loss.

Article 11 – Subcontracting and prohibition on assignment

11.1. The Contractor is obliged to carry out the contract itself and may not arrange for it to be carried out, or carried out jointly, by a third party, wholly or partly, without Gouda's express written consent. Gouda can attach conditions to such consent, for example that the Contractor should establish an undisclosed pledge in favour of Gouda on the rights which the Contractor has against the third party to be engaged by him.

11.2. Without Gouda's consent the Contractor is forbidden to assign, pledge or on any legal basis whatsoever wholly or partly encumber or transfer title to claims against Gouda arising from the instruction for Work.

Article 12 – Intellectual property rights

12.1. The Contractor guarantees that the Work and the Products, together with their normal use, all in the broadest sense, will not infringe any absolute right of a third party (such as patent rights, copyright or trademark rights) and the Contractor will indemnify and fully compensate Gouda for claims by third parties on account of any breach of such an absolute right.

12.2. Any intellectual or industrial property rights to technical developments effected by the Contractor and third parties engaged by him on Gouda's instructions are vested in Gouda.

12.3. Drawings, illustrations, models and calculations which Gouda supplies remain the property of Gouda, and the Contractor may not copy them or hand or show them to third parties without written consent.

Article 13 – Confidentiality

The Contractor will maintain strict confidentiality towards third parties in relation to all Gouda details and company information which he can reasonably assume is confidential, together with all details regarded by Gouda as confidential which come to his knowledge during the performance of the contract and will oblige his personnel and anyone whom the Contractor engages to carry out the contract to observe the same confidentiality; moreover, these details and this business information may only be used in connection with the contract and are not intended for the Contractor's own use.

Article 14 – Recipients' liability

14.1. This Article concerns recipients' or intermediate recipients' liability, under the applicable legislation of the country where the Activities are being carried out, for payment by the recipient of wage tax, national insurance contributions, turnover tax and similar taxes.

14.2. The Contractor is obliged to produce the following documents to Gouda on demand:

- (a) the most recent registration in the Commercial Register of the Chamber of Commerce;
- (b) the most recent Industrial Insurance Board registration;
- (c) licence to establish a business or exemption, if prescribed for the branch of industry concerned;
- (d) turnover tax and wage tax number;
- (e) a declaration drawn up and signed by a chartered accountant showing that the Contractor has paid the wage tax, national insurance contributions and BTW payable during the term of the agreement concerning the employees engaged to perform the contract with Gouda;

- (f) a certificate issued by the Tax Collector and Employee Insurance Schemes Implementing Body concerning the Contractor's payment record;
- (g) copy of the agreement to open a guarantee account or other (bank) account blocked and no longer accessible by the Contractor into which the taxes and contributions payable under the applicable legislation are deposited.
- (h) together with all other documents needed to check whether the Contractor meets or will meet or be able to meet his obligations under the relevant legislation.

14.3. The Contractor must strictly fulfil his obligations regarding the payment of the taxes and national insurance contributions referred to in paragraph 1 and is liable for all losses which Gouda might suffer should it be held jointly and severally liable on account of the Contractor's failure to pay on time. At Gouda's request the Contractor will produce an original certificate of his record of payment to the Industrial Insurance Board, wage tax department and other bodies.

14.4. If and for as long as the Contractor does not submit the certificate referred to in Article 14.2, Gouda is entitled to suspend payment up to the amount for which it runs the risk of liability. Gouda is always entitled to deposit the national insurance contributions, wages tax and/or BTW payable into the blocked guarantee account intended for them or to transfer the amounts concerned directly to the Tax and Customs Administration or industrial insurance board; as a result of these acts Gouda is to that extent also discharged vis-à-vis the Contractor.

Article 15 – Applicable law

This contract and the contracts arising from it are subject to Dutch law. The Uniform Law on the Formation of Contracts for the International Sale of Goods and the Vienna Sales Convention are not applicable.

Article 16 – Interpretation of the conditions

Versions of these conditions have been produced in Dutch and other languages. In the event of any difference in their content or effect, the Dutch text is decisive.

If in the opinion of the competent court any provision in these conditions is in any respect void, contrary to the law or unenforceable, this will not affect the other provisions, and the court ruling is therefore limited to the provision to which it relates. Gouda will convert that provision into valid wording whose effect is as close as possible to the original effect.

Article 17 – Resolution of disputes

All disputes arising further to the contract or contracts connected with it will be resolved by the competent court in Rotterdam.