

Terms of Delivery AC-2018-01: Amicon B.V.  
Chamber of Commerce: 68673531

NL77 RABO 0318 1864 11  
K.v.K nummer 68673531  
BTW NL 8575.44.536.B.01

info@amicon-fabrication.nl  
www.amicon-fabrication.nl

### **Article 1 - General**

1. These Terms and Conditions apply - and form an integral part of - each special offer, quotation and agreement between Amicon B.V. (hereinafter referred to as "Supplier") and the other party (hereafter referred to as "Client") where the Supplier has identified that the provisions in these conditions apply. The provisions in these conditions may only be deviated from if the Parties have expressly agreed to changes in writing.
2. The Terms and Conditions are also applicable on agreements between the Supplier and Client, where the Supplier uses a third party for the completion of the agreement.
3. Other Terms and Conditions provided by the Client are deemed not-applicable unless the Supplier has accepted these terms or parts thereof in writing.
4. If a condition or part thereof is deemed to be not applicable, it does not affect the applicability of the other provisions.
5. If the Supplier does not always demand strict compliance of these Terms and Conditions, it does not mean that the provisions of the general terms and conditions do not apply, or that the Supplier would lose the right to some extent to the strict observance of the provisions in other cases.
6. In case of differences in interpretation between the English and Dutch versions, the original Dutch version shall prevail.
7. Additionally these Terms and Conditions apply to all partial agreements, follow-up agreements or repeat and partial orders resulting from the previous agreement.
8. If the Supplier has already handed these general terms and conditions to the Client several times, this can be deemed to be a lasting trade relationship. The Supplier then does not have to hand over the general terms and conditions each time to make them applicable to subsequent agreements.

### **Article 2 - Quotation**

1. An offer or quotation will be issued in writing or electronically, with the exception of emergent circumstances, and is without obligation.
2. Every offer and each quotation from the Supplier is valid for 30 days, unless stated otherwise. The Supplier has the right to withdraw the offer or quotation within 2 working days after the receipt of the acceptance of the Client.
3. An agreement is completed when the Client accepts the offer or quotation provided by the Supplier.
4. The prices listed in an offer, quotation, price or rate list are excluding VAT taxes.
5. The noted activities mentioned in the offer or quotations will be carried out according to the specified dimensions, drawings and provisions which were provided by the Client.
6. If the offer or quotation is based on information provided by the Client and this information proves to be incorrect, incomplete or is changed thereafter, the Supplier has the right to adjust the prices, rates and/or the stated delivery terms.
7. If the Client can reasonably understand that the offer or a part thereof contains an obvious error or mistake, the Supplier is not to be held to its offer.
8. The Supplier is not bound by the acceptance if the details in the acceptance differ from the offer or quotation.
9. The offer, quotation, prices or rates do not automatically apply to repeat, new or follow-up orders.
10. The Supplier has the right to charge the costs associated with the offer or quotation to the Client, provided that the Client was informed of these costs in writing in advance.
11. Drawings, technical descriptions, designs, and calculations made by the Supplier, or on its behalf, remain the property of the Supplier. They may not be used by or shown to third parties for the purpose of obtaining a comparable offer. They may also not be copied or otherwise multiplied. If an agreement is not made, these documents must be returned at the costs of the Client to the Supplier. This must be done within 7 days of a request thereto by the Supplier.

### **Article 3 - Agreement**

1. The agreement is established after the Client has accepted the Suppliers offer, even if this acceptance deviates from the offer on minor points. However, if the acceptance of the Client deviates on essential aspects, the agreement will only be concluded if the Supplier has agreed to these deviations in writing.
2. If an assignment is given by two or more clients, they are jointed and the Supplier has the right to claim complete fulfillment to either of the parties.
3. The agreement can be entered for contract work or on a management basis (hours x rate).
4. The Supplier has the right to outsource specific tasks to third parties.
5. The Supplier has the right to complete the work in phases and to invoice the completed tasks in phases on separate invoices. In the case of contracted work, payment takes place in installments and if required a payment installment schedule is drawn up.
6. Assignments from the Client that lead to additional work will be agreed upon in mutual agreement. This can be verbally or in writing.

### **Article 4 - Delivery**

1. The expected delivery times are always an approximation and thereby are only an indication, unless clearly agreed otherwise in writing. Delivery times will start after the agreement has been concluded in accordance with Articles 2 and 3.
2. The Supplier is authorized to do partial deliveries.
3. When determining the delivery times, the Supplier assumes that the work can be completed under the circumstances known at that time. If conditions change, the Supplier has the right to extend delivery times by the time which is deemed necessary to execute the order under the changed circumstances.
4. The Supplier is obligated to inform the Client on demonstrable deficiencies in constructions or methods which were completed by, instructed by or ordered by the Client. The Supplier is also obligated to inform the Client of demonstrable defects in building materials or aids made available or ordered by the Client for as far as the Supplier could reasonably be aware of these flaws.
5. If the start, progress or delivery of the work or the agreed delivery of goods is delayed because:
  - a. The supplier did not receive the required information from the Client in a timely manner;
  - b. The supplier did not receive the agreed (advance) payment from the Client in time;
  - c. There is a change in other circumstances which fall under the Clients risks;the Supplier is entitled to a reasonable extension in the date of completion or delivery time as well as compensation for possible costs and damages involved, such as time spent waiting.
6. The timeframe agreed upon is expressed in workable days. Workable days can be defined as a calendar day on which legal business can be conducted which excludes days off as noted in collective labor agreements, local statutory holidays, vacation days or other non-individual days. Working days or half working days that are interrupted with unworkable periods will be deemed unworkable when the cause of the interruption falls outside of the responsibility of the supplier.
7. Exceeding the delivery time does not in any case entitle compensation, unless this has been agreed upon in writing.
8. When exceeding the agreed upon terms, the Client must provide written notice of default to the Supplier. The Supplier must be offered the option to complete the agreed upon work at that time within a reasonable term of at least 30 days
9. The Supplier makes every effort to realize the agreed upon work within the set out timeframe, insofar this can be reasonably expected of the Supplier. If at the request of the Client the agreed upon timeline is moved up, the Supplier has the right to charge the Client for overtime hours and other costs incurred to do so.
10. If the Client requests changes to the agreed upon work, the Supplier will inform the Client about the consequences of these changes to the agreed prices, rates and delivery/completion time.
11. If during the execution of the agreement, it appears that the work and or deliveries cannot be carried out in the agreed upon manner due to unforeseen circumstances, the Supplier will consult the changes in the agreement with the Client. The Supplier will thereby inform the Client of the consequences of the possible changes in the agreed upon prices, rates or delivery times. If the execution of the agreement has become impossible as a result of these changes, the Supplier is entitled to full compensation for the work and deliveries already performed.

12. For ex works shipments, the Client is responsible for the goods from the moment that the goods leave the factory. This includes the accounts and risks even if the Supplier has agreed to arrange for transport.
13. The Client is obligated to take receipt of the goods and to have sufficient personnel and materials available to unload the goods in a smooth manner without interruptions. Additional costs arising from the Client's negligence are for the Client's account.
14. If the Client or a third party designated by the Client has not purchased the goods within the set out time period, the Supplier is entitled to store the goods at the Client's costs and risks. Additionally the Supplier may sell the goods to a third party whereby the costs incurred such as storage, administration, transport and reduced revenue will be charged to the Client.

#### **Article 5 – More/less work**

1. An increase or decrease in work can be agreed upon in writing or verbally between the Supplier and the Client. The Supplier is only bound by verbal agreements after they have received a written confirmation from the Client or when the Supplier has started to implement the agreement without objection from the Client.
2. Changes to the work will always result in an increase or decrease of work when there are changes to the design, specifications, when the Client supplied information does not match the actual conditions, or when the estimated quantities vary by more than 10%.
3. In the case of additional work, the Supplier has the right to charge Client with the costs for the extra materials, extra hours and such as well as a compensation of 6% over the calculated extra work to compensate for the general (overhead) costs that the additional work will bring the Supplier.
4. Without being in default, the Supplier can decline a request for an increase or decrease of work if this would qualitatively impact the boundaries of the work/deliveries completed or to be completed.

#### **Article 6 - Execution of agreement**

1. If the start, progress or delivery of the work or the agreed delivery of goods is delayed because:
  - a. The supplier did not receive the required information from the Client in a timely manner;
  - b. The supplier did not receive the agreed (advance) payment from the Client in time;
  - c. There is a change in other circumstances which fall under the Client's risks;the Supplier is entitled to a reasonable extension in the date of completion or delivery time as well as compensation for possible costs and damages involved, such as time spent waiting.
2. In case the delivery should take place on a day which does not constitute as a working day as described in the previous article, the following work day will count as the day of delivery.
3. The Supplier takes every effort to realize the agreed upon work and deliveries within the timeframe previously agreed upon, for so far this can reasonably be expected. If at the request of the Client the agreed upon timeline is moved up, the Supplier has the right to charge the Client for overtime hours and other costs incurred to do so.
4. If the Client requests changes to the agreed upon work, the Supplier will inform the Client about the consequences of these changes to the agreed prices, rates and delivery/completion time.
5. If during the execution of the agreement, it appears that the work and or deliveries cannot be carried out in the agreed upon manner due to unforeseen circumstances, the Supplier will consult the changes in the agreement with the Client. The Supplier will thereby inform the Client of the consequences of the possible changes in the agreed upon prices, rates or delivery/completion times. If the execution of the agreement has become impossible as a result of these changes, the Supplier is entitled to full compensation for the work and deliveries already performed.

#### **Article 7 - Payment**

1. The Supplier always has the right to request (partial) prepayment of or any other security for payment from the Client. The requested prepayment will be a maximum of 50% of the agreed upon price.
2. Payment must be made within the 30 day payment term which starts from the date of invoice, except when both parties have agreed upon an alternative payment term in writing. The invoice is deemed to be correct if the Client has not objected within this payment term.
3. The Supplier will submit the final invoice within a reasonable period after the day on which the work is deemed completed.

4. If the Client does not pay on time they will be in default, the Supplier is entitled to collect the amount owed at that time as long as the Supplier has given the Client a written reminder to pay 7 days before the end of the payment term and the Client has failed to do so.
5. If the Client does not pay a payment installment in time, the Supplier is entitled to stop the work until the moment where amount due has been paid as long as the Supplier has given the Client a written reminder to pay 7 days before the end of the payment term and the Client has failed to do so.
6. If work is halted as per the previous bullet, the Supplier will not be responsible for damages that may be incurred due to the work being stopped.
7. If an invoice is not paid in full after the payment term has expired or if an automatic withdrawal was not able to take place, the Client owes the Supplier the statutory interest. The interest will be calculated on the full invoice amount starting from the payment due date until the moment that the payment is received in full.
8. If the Client remains in default and does not meet their obligation to pay the invoice, all reasonable costs for obtaining payment of the invoice will be accounted to the Client. All extrajudicial and judicial collection costs shall be borne by the Client as well. The Client will also owe interest over the collections costs which amounts to 15%.
9. In the absence of full payment from the Client, the Supplier has the right to dissolve the agreement without further notice. The Supplier does not have to provide further notice of default in writing and can suspend their obligations from the agreement until the Client has completed payment or has provided adequate security of payment. The supplier also has the aforementioned right to suspend if there are reasonable grounds to doubt the creditworthiness of the Client even before the Client is in default of payment.
10. Payments made by the Client will first be deducted by the Supplier from all interest and costs due. After this the payment will be deducted from the oldest invoices first, unless the Client has provided written confirmation that the payment is to be used for newer invoices.
11. The Client is not entitled to offset any claim against the Supplier with the amounts charged by the Supplier. This is also applicable if the Client applies for a (provisional) suspension of payment of is declared bankrupt.

#### **Article 8 - Suspension, dissolution and cancellation**

1. The Supplier is authorized to suspend or dissolve the agreement immediately when:
  - a. The Client does not meet the obligations in full, partially or not in time after being given notice (in writing or verbally) .
  - b. After creating the agreement, the Supplier becomes aware of circumstances that give grounds to expect that the Client will not fulfill its obligations.
  - c. When the agreement is commenced, the Client is to provide proof to display fulfillment of his obligations according to the agreement yet the proof is not provided or sufficient.
  - d. Due to delays from the Client, the Supplier cannot be expected to fulfill the agreement under the original conditions which were agreed upon.
  - e. When conditions arise that are of such a nature that fulfillment of the agreement without alterations is impossible and cannot be reasonable expected from the Supplier.
2. If the dissolution of the agreement is caused by the Client, the Supplier is entitled to compensation for damages including the costs that have been created by the agreement directly or indirectly.
3. If the agreement is dissolved, the claims from the Supplier against the Client are immediately due and payable.
4. If the Supplier proceeds to suspension or dissolution based on this article, the Supplier is not obligated to compensate the damage and costs that have arisen for the Client.
5. In the event of liquidation, (application for) suspension of payment, bankruptcy or seizures at the expense of the Client, the Supplier is free to end the agreement with immediate effect or to cancel the agreement without any obligation from the Supplier. The claims from the Supplier to the Client will at that time become due and payable immediately.
6. If the Client cancels a placed order, partially or in full, the costs incurred for this will be charged to the Client.
7. If damage occurs to the work during the suspension, it will not be for the account of the Supplier unless the Supplier could reasonably foresee this damage and should have advised the Client of the possible foreseeable damages.
8. The Supplier can suspend the obligations from the agreement for the period that there is force majeure. Force majeure is understood to mean, in addition to the relevant legal and jurisprudence, all external matters,

foreseen or unforeseen, over which the Supplier cannot exercise influence, or as a result of which the Supplier is unable to fulfill its obligations.

**Article 9 - Retention of title**

1. The Supplier remains ownership of all goods delivered and to be delivered under the agreement until the Client has fulfilled all payments towards the Supplier in full.
2. The payment obligation referred to in the previous paragraph consists of payment of the goods, plus claims for work performed in connection with the delivery and claims against the Supplier for not meeting its obligations such as additional compensation for losses, extrajudicial collection costs, interest and possible fines.
3. As long as the goods delivered are subject to retention of title, the Client may not sell, pledge or bring the goods into the (actual) power of a financier by means of pledge lists in any way.
4. The Client must inform the Supplier in writing right away if third parties pretend to have ownership or other rights to the goods on which a retention of title remains. Additionally if third parties seize the delivered goods on which retention of title rests or wish to establish claim or enforce rights thereon the Client must also inform the Supplier in writing immediately.
5. The Client must always do everything that can be reasonably expected of him to safeguard the property right of the Supplier. The Client must store the goods with retention of title in such a careful manner that the property is identifiable as property of the Supplier.
6. The Client must provide proper insurance coverage that the items that have been delivered but remain under retention of title are co-insured at all times and will upon request provide the Supplier insight into the insurance policy and the associated proof of payment of the premium.
7. If the Client acts contrary to the provisions in this article or of the Supplier invokes the retention of title, the Supplier and its employees have the irrevocable right to enter the Client's grounds and collect the goods delivered under retention of title. The Client hereby grants the supplier and third parties to be designated by the supplier unconditional and irrevocable permission in advance to enter all locations where the property of the Supplier is located and to take back those goods. This applies without prejudice to the right of the Supplier to claim compensation for damages, lost profit and interest and the right to terminate the agreement without further notice by means of a written statement.
8. Unless both parties agreed otherwise in writing, the Supplier is and remains the owner of all intellectual property rights that rest, come forth, are related and/or belong to the Suppliers work, working documents etc. These rights are valid both during and after the execution of the agreement and are only to explicitly and exclusively be reserved for the user.

**Article 10 - Warranty**

1. The Supplier ensures that the agreed deliveries and work are carried out properly and in accordance with the standards applicable in the sector. The Supplier does not provide any additional warranty for the deliveries then explicitly agreed upon by both parties. The warranty referred to in this article is only applicable on items intended for use within the Netherlands.
2. The Supplier vouches for the standard quality and soundness of the delivered goods and the work performed during the warranty period.
3. When using the building materials required for the implementation of the agreement, the Supplier relies on the information provided by the manufacturer or supplier of these building materials in regards to its properties. If warranty has been issued on the supplied building materials by the manufacturer or supplier to the Supplier, this warranty will be forwarded to the Client at the same level of coverage. The Supplier will inform the Client of these details.
4. If the purpose or destination for which the Client wishes to process, incorporate or use the goods deviates from its usual purpose or destination, the Supplier will only provide warranty on the goods to be used in the alternate purpose or destination if he has confirmed this in writing.
5. All forms of warranty will end when a defect has come forth from improper use or improper storage or maintenance by the Client and or third parties. Additionally special circumstances on which the Supplier has no influence such as weather conditions are not covered under the warranty.
6. The warranty cannot be invoked as long as the Client has not yet paid the price for the goods and or the fee agreed on for the work.
7. The previous provision does not count for the consumer.

8. In the event of a legitimate warranty claim, the Supplier will let the Client choose between the following solutions: repair or replacement of the goods free of charge, a correct completion on the agreed upon work or to reimburse or provide a discount on the agreed price.
9. Contrary to the previous provision, the consumer has the choice between repairing or replacing the goods or completing the agreed upon work properly unless the Supplier cannot reasonably be expected to do so. Instead the consumer may always terminate the agreement in writing or request a discount on the agreed price or reimbursement.
10. Even if the Client claims in time, this does not suspend their payment obligation.
11. If it is determined that the complaint and claim for warranty are unfounded, then the costs that have arisen as a result, such as the investigation costs etc., by the Supplier will be entirely the responsibility of the Client.

#### **Article 11 - Liability**

1. Except for the explicitly agreed upon warranties, Supplier guaranteed results or quality requirements, the Supplier does not accept any liability.
2. Without prejudice to the previous provision, the Supplier is only liable for direct damage. The Supplier is expressly not liable for damages that are consequences of the direct damage such as loss of profits, company damages, suffered financial loss, damage caused by delay, or personal injury.
3. The Client must take every measure possible in order to prevent or limit damage.
4. If the Supplier is liable for the damage suffered by the Client, the Supplier's obligation to pay compensation is always limited to the value paid out by the insurance company in the relevant case. If the insurer does not pay or the damage is not covered under the Supplier's insurance policy, the Supplier is obligated to pay compensation which at most will be the total invoice amount for the goods delivered or the work performed.
5. The Client must make all liability claims to the Supplier within 6 months after the Client has become aware of or could have been aware of the damage it has suffered.
6. Contrary to the previous paragraph, a period of 1 year applies to a consumer.
7. If the Supplier must carry out its work or deliveries based on the documents provided by or on behalf of the Client, the Supplier will not be responsible for the contents, accuracy, and completeness of these documents. The Supplier thereby is not liable for damages of any kind that are created due to the Supplier relying on the incorrect or incomplete information provided by or on behalf of the Client.
8. If the Client provides building materials and or other parts for further processing or assembly, the Supplier is responsible for ensuring its proper use and assembly but not for the soundness of the materials or parts themselves. The Supplier thereby cannot be held liable for work specified for or specified by the Client. The Supplier is also not liable for the choice of supplier or goods which the Client has decided to use.
9. The Supplier is never liable for damage to work as a result of work performed or deliveries made by or on behalf of the Client.
10. The Client indemnifies the Supplier against all claims from third parties for compensation of damage as long as the Supplier has made, prior to implementation of the agreement, a timely mandatory WION excavation report (KLIC-report) to the Land Registry, has completed excavation carefully and yet damages to lines below ground arise.
11. If after starting the agreement it appears that the work location, the work and or building materials arising from the work are contaminated, the Client is liable for the resulting consequences and indemnifies the Supplier against all claims from third parties that may arise from these conditions.
12. The limitations of liability included in this article do not apply if the damage is due to intent and or deliberate recklessness by the Supplier or its team leaders on management level or in case mandatory legal provisions dictate otherwise. Only in these cases the Supplier will indemnify the Client against any third-party claims against the Client.
13. The day after the work is deemed to be completed, the Supplier is no longer liable for shortcomings in the work.

#### **Article 12 – Right of Retention**

1. The Supplier has the right to exercise a right of retention and in this context to suspend (further) delivery of the work as well as deny the Client access to the work during the period that:
  - a. The Client has not paid or fully paid the costs of the work.
  - b. The Client has not paid or fully paid the costs of previous work performed on the agreement by the Supplier.

- c. The Client has not paid or fully paid other open claims for payment that arise from the contractual relationship with the Supplier.
2. The Supplier is not liable for any damage - of any nature - that arise from the Supplier's exercised right of retention.

**Article 13 - Disputes**

1. The agreement concluded between the Supplier and the Client falls exclusively under Dutch law.
2. Any disputes will be submitted to the competent court in the location where the Supplier is established, additionally the Supplier always retains the right to submit the dispute to the competent court in the place of establishment of the Client.