

GENERAL PURCHASE CONDITIONS SET FOR
ALL THE SUPPLIES AND ENTERPRISES

Article 1 - Generalities

The general conditions and the special conditions together make up the agreement concluded between the parties and are concurrently applicable. They are deemed to be known by the co contractor.

In case of contradiction between clauses of the general and the special conditions, the latter take precedence.

The cocontractor's general conditions are opposable to CBR insofar they have been expressly and in writings accepted by CBR before the conclusion of the contract.

All amendments to the contract have to receive, in order to be valid, the prior written agreement of both parties.

Additional work cannot be executed without the written consent of CBR.

Furthermore, that work has to be the object of a prior price offer.

Works that have been executed without a price offer approved by CBR are deemed not to commit CBR.

The cocontractor is supposed to have taken knowledge of the premises and the execution conditions (as there are the access, the condition of the existing installations, coordination with other firms working at the same time, etc.).

He declares that he has a thorough knowledge of the nature and the extent of the enterprise.

As a consequence, the cocontractor can never claim supplies or works which have not been planned for or specifically defined in the order as grounds for price supplements except if those supplies or works result of conditions which could not be detected before the execution.

Article 2 – Quality of the supplies and provisions

The price is meant for first quality supplies, complying with the order and for works of the very first order executes as stipulated by CBR, for the materials as well as for their execution according to the rule book.

It includes all the supplies and all the works, the main as well as the incidental, necessary to perfect and to round up the execution of the contract.

At any moment, CBR can check or make check and stop a work that is not in accordance and refuse any supply which quality is not up to that agreed on, and this decision will not justify any delay in meeting the deadlines.

Based on errors or omissions in his offer, the co contractor cannot spare himself the supply or the set up, without additional charges, all the accessories necessary for the perfect completion according to the rule book and the regulations, norms and contractual recommendations to achieve a installation fully functional and ensuring the safety of the personnel and the equipments.

On the other hand, the choice of the equipments and their constituents as well as their assembly has to be submitted to the good working order of the installations.

The fact that certain equipments, devices and implementing methods are imposed does not dispel the cocontractor's liability, in the case that he judges the materials or the set up or implementation method inappropriate for the appointed use, he has to inform CBR before the execution. The final choice will be made in common with full knowledge of the case.

Within the frame of his mission, the co contractor should make the client all the propositions and suggestions which could better the characteristics of his material in order to use the latest state of the art techniques.

All replacement of supplies, demolition tasks or stripping as well as all the rebuilding and reassembling tasks resulting from a non conformity with the technical instructions will be executed by the contractor at his own expenses while respecting the executions deadlines of the enterprise.

Article 3 - Conformity of the supplies and works with the legal, regulations and administrative provisions

The supplies and works have to comply with the whole of the legal, regulatory and administrative provisions and more particularly with:

- the laws and regulations currently being in force in matters of employment and social security law;
- the CEBEC, N.B.N. and if not available the V.D.E. standards;
- the regulations for electrical appliances, published by the committee of the Belgian insurers and the RGIE;
- the R.G.P.T., the law of august the 4th 1996 concerning the well being of the workers as well as to the execution decrees;
- the Mine Codex;
- article 54 quarter 3 and 4 concerning collective protections;
- The royal decree of May the 5th 1995 transposing into Belgian law the directive 89/392, said the "Machine Directive". The supplier will hand over a IIB or IIA statement if he is the final assembler. The IIB statement will:
 - specify that the machine meets all the essential demands of the directive, except those which have not to or cannot be observed at the delivery while they have to be incorporated or assembled later;
 - specify the applied standards and instructions;
 - specify which of the essential demands have not been observed while the materials are being incorporated or assembled later.
- The supplier will affix the "E.C." marking on his appliances. Furthermore, in case of a IIB declaration, the supplier has to draw up a technical construction file. He will deliver a copy or the references.
- The royal decree of January the 25th 2001 concerning the temporary or mobile construction sites.
- the prescriptions concerning security settled in the special conditions.

In addition, the co contractor will take the material security measures essential for the protection of the workers against detectable risks inherent in their work and he will look after a maximum adaptation of the working condition to the human being.

In addition, he will take all the measures, even those which are not provided for by the law and the regulations but are deemed necessary to avoid damage to the equipment and the environment.

At the written request of CBR, the cocontractor will hand over proof certifying that he meets the expectations which are mentioned above concerning the supplies and works.

Article 4 – The cocontractor’s obligation to control

The cocontractor has to verify all the information, the specifications, plans, made available by CBR in order to verify their appropriateness with CBR’s aim and immediately bring to the attention any mistake, especially as to quantities or any omission in the measurements.

The cocontractor will pass on to CBR, for its information, the results of his verifications, tests and measures he will warrant the accuracy of the information and documents and he thus will ensure the whole responsibility and hold CBR completely free of any claims.

CBR’s approval of the documents handed over by the cocontractor will not free the latter from the responsibilities which are his. On the other hand, any modification made to already approved documents has to be submitted to CBR’s approval.

Article 5 - Agreeing the supporting elements and the connecting and linking points

Before starting the execution, the cocontractor will examine those elements which are going to serve as support for these works and supplies as well as to the connecting and linking points between his works and supplies and the existing installations. This inspection will not only include the condition and the nature of these elements and connecting or linking points but also their technical characteristics. This information will be made available by CBR at the request of the cocontractor. The latter shall notify CBR, before the execution and by registered mail, about any element which could create difficulties for the execution of the contract.

Failing that notification, the elements of support and the connecting and linking points will be deemed agreed on by the cocontractor and appropriate to the execution of a work according to the rule book and with all guaranties as to their well functioning. Except for reservations expressly made and sent by registered mail by the cocontractor, before the execution, he tacitly agrees to accept all the elements in which his works and supplies shall be included or inserted or which will have to serve as support as well as the connecting and linking points with other installations, and this in a general way.

Article 6 – General instructions in matters of security

6.1 Note and instructions

According to the laws and directives in article 3, the supplier will hand over to CBR the information note in French concerning the work equipment for the whole of the installation, machine, mechanical device or individual or collective protection gear as well as the contractual plans and diagrams.

This note will contain the documents concerning installation, use, maintenance, security devices, putting on consignment, special measures of security to observe, as well as the security rules to exhibit on the equipment itself.

Suppliers of dangerous substances or preparations will make available to CBR a document stating the true ingredients of the supplied product according to article 723bis of the RGPT, as well as the security card of the dangerous substance or preparation.

6.2 Starting the enterprise

Before the starting of the enterprise, the cocontractor or one of his authorized representatives who have decision power will, together with CBR, participate in a meeting concerning the starting of the building site and he will sign a document to that effect. That document is considered an appendix to the contract and is an integral part of it. CBR will inform, amongst others, the cocontractor of the existing risks on the site where the works are to be executed. The cocontractor will inform, amongst others, CBR of the risks inherent in his activities.

CBR will coordinate the works of the different cocontractors and will ensure a good cooperation between them; CBR could exercise control upon the installations and upon the training the workers received from their employers (the cocontractors).

If the cocontractor neglects to take the security measures mentioned above, CBR, after giving verbal or written formal notice, will take the necessary measures and will charge the cocontractor with the expenses involved.

In case the cocontractor would resort to a subcontractor for the execution of the tasks aimed at in this order, he commits himself to conclude with said subcontractor an agreement containing the same or similar security clauses as those listed in this contract.

The cocontractor commits himself to:

- transfer all information concerning the security to his employees as well as to his subcontractors, within the frame of this enterprise.
- verify, before starting the works, that everyone has clearly understood them;
- use on the site only material in conformity with the law as well as competent personnel, physically qualified to do the tasks requested for the execution of the works.

Article 7 - Deadlines and planning

The cocontractor commits himself to do what it takes in order to observe the works deadlines set by CBR, and the latter reserves the right to adapt or modify the planning, if need be, without any compensation.

If the cocontractor considers that the deadlines cannot be observed, for whichever cause that he judges out of his control, he will have to inform CBR before the deadline is in jeopardy in order to set up, by common consent, the measures to be taken to remedy the situation.

CBR reserves the right to take away from the contract certain works to place them with the competition if the contractor's obligations in matters of deadlines would not be met.

Article 8 – Transfer and subcontracting

The forwarding and the transport of the goods are at the supplier's own risk, they being sold "off factory" or "free at destination", when the transport fee is charged to the supplier.

The contract can neither be transferred nor subcontracted as a whole or in part, without the prior written agreement of CBR.

The acceptance by CBR of a transferee or a subcontractor does not free the cocontractor from his responsibilities towards CBR in relation to which he remains jointly liable for all his obligations.

In case of subcontracting or transfer of the whole or part of the contract, the cocontractor warrants CBR that the subcontractor or the transferee is a registered contractor who has not been removed from the list of registered contractors.

The fact, for a cocontractor, to deal with a subcontractor who is not registered or removed from the list, gives CBR the right to suspend immediately all payments to the cocontractor.

Article 9 - Dispatching

The forwarding and the transport of the goods are at the supplier's own risk, they being sold "off factory" or "free at destination", when the transport fee is charged to the supplier.

Any sending will have to be accompanied by a dispatch note. This dispatch note will have to show the supplier's VAT number, the country of origin of the goods (if it is different from the country where the goods were manufactured), the nature of the business, the customs nomenclature, the details about the shipment, the number and the date of the order to which it is related, the gross and net weight as per parcel, the value of the goods delivered at the border, the markings and the size of the parcels and all other useful information. All these elements will have to appear on the invoice also.

When both the preceding instructions are not observed, CBR has always the right to refuse the delivery of the goods which will then be considered as not supplied.

The supplier takes sole responsibility for lateness, errors and the cost resulting from the non observance of the conditions above.

The packing and packaging have to be done carefully, according to the law and likely to rule out damage during transport. It remains at the expenses of the cocontractor. If it has some value, it will be returned without any costs for CBR and on the request of the cocontractor. In case the packing and packaging are to be considered as waste material, they could be returned to the cocontractor without any costs for CBR. Transport risks are the responsibility of the cocontractor.

Article 10 - Import

In case of import from outside the EU, the cocontractor will send to CBR, at the time of the acceptance of the order, a pro forma invoice in four copies for the material which is the object of the order.

When, for the import of goods from outside the EU, CBR has to have an import document then the order or the deal remain submitted to obtaining such a document.

Article 11 – Patents – Plans - Models

The acquisition price of patent rights and royalties has to be included in the price found in the special conditions.

CBR's cocontractor commits himself to take charge of all the expenses and costs of any nature which could result from claims and demands from third parties holders of patents or licences to operate and will hold CBR free from any claims.

The same rules are applicable to plans and models.

The cocontractor commits himself not to use or publish studies about the documents and photographs in relation with the buildings and installations without CBR's prior agreement. When CBR agrees the cocontractor will expressly mention the name of the company CIMENTERIES CBR that will be designated as the owner and/or as the contracting authority.

Article 12 – Commercial paper – Invoice endorsement – Transfer of receivables

Not any commercial paper can be drawn on CBR by the cocontractor without CBR's prior and written consent.

Article 13 - Payments

The payments made by CBR are never to be considered acknowledgment of the quality and the conformity of the supplies, nor of the quality and the duly execution of the works. They cannot be considered an approval in whole or in part of the supply, nor as a formal acceptance of the whole or part of the works.

Any payment has to be considered being a down payment of the total and final price; that payment does not lessen, until the final acknowledgement and official acceptance, the cocontractor's responsibility.

Furthermore, it does not free the cocontractor from his obligation to repair, modify or replace any supply or work for which a defect has been duly noted and notified.

Payment follows at 60 days end of the month of the receipt of the invoice, on condition that the supplies and/or the works have been executed, acknowledged and accepted, with the exception of the part payments requested by the cocontractor and insofar the supplies or the enterprise have not been the subject of dispute or matter of contention. Interests will be due to¹ CBR at the general going rate after giving formal notice by registered mail left without results during eight calendar days, the postal date evidencing this.

Article 14 - Transfer of the ownership and the risks

CBR becomes the owner of the supplies and the works from the time they were delivered or executed. However, all the risks, including the transport risks, remain the cocontractor's responsibility until the provisional acknowledgement for the supplies and the provisional formal acceptance of the works. The cocontractor has thus to take all useful measures to ensure the perfect conservation of his supplies and/or works as well as for watching the buildings until their provisional formal acceptance.

Article 15 – Confidentiality of the information

Information about the manufacturing technique or the control of it which have been made available to the cocontractor by CBR for the execution of his works, are to be considered as strictly confidential. The cocontractor commits himself to keep secret all the information handed over by CBR about the manufacturing techniques and their control and not to reveal to a third party (suppliers, subcontractors, ...) those information without CBR's prior written agreement. Just as the cocontractor will take all the measures towards his personnel in order to keep the said information confidential.

Article 16 – Acknowledgement - Acceptances

16.1 – Supplies without works other than those inherent in the delivery

These supplies will be submitted to a double acknowledgement a provisional one and a final one, both will be drawn up in a contradictory way between the parties at the request of the cocontractor.

- the provisional acknowledgement will take place after the delivery of the goods at the agreed on place and time and covers but the conformity from a quantitative point of view, with the exception of any other non conformity which CBR has the right to denounce until the final acknowledgement;
- the final acknowledgement will take place at the expiry date of the guarantee and it will only cover the visible defects and non conformities, with the exclusion of all hidden defects, whatever their importance which remain the cocontractor's responsibility.

16.2 – Works with or without supplies

These works will be submitted to a double formal acceptance, a provisional one and a final one both will be drawn up in a contradictory way between the parties at the cocontractor's request.

- the provisional formal acceptance will take place at the earliest fifteen working days after the cocontractor has notified CBR of the complete achievement of the works, the regulating, setting, tuning and satisfying tests and its effect will be only the noting of these facts. It will not cover hidden defects,
- the final formal acceptance will take place at the earliest fifteen working days after the cocontractor's request which will be addressed to CBR according the provisions in the special conditions and at the earliest one year after the provisional formal acceptance. This final formal acceptance, the starting point of the ten-year guarantee if appropriate, covers but the visible defects and non conformities, with the exception of the guarantee for all the hidden defects – inherent or functional – whatever their importance, and of the ten-year guarantee, if it is applicable, which remains the cocontractor's responsibility.

¹ In ne s'agit, sans doute, plutôt de « à » que de « par » (« to » or « by »).

16.3 Provisions common to the acknowledgements and acceptances

The acknowledgements and acceptances will be noted in contradictory minutes between the parties, in two copies each one being duly signed by each party. The cocontractor will, prior to this, make inquiries at CBR about the persons authorized to commit it and act on its behalf. Only the minutes signed by those persons who have been expressly given mandate by CBR to that effect will be opposable to CBR. The acknowledgements and acceptances, whatever being the circumstances, will not be deemed tacitly given. Henceforth, both taking over ownership as a whole or as a part of the supplies or the works, nor their use, nor the absence of claims during a given time, nor the part or complete payment can be considered as a tacit acknowledgement or acceptance, and this list is not restrictive.

16.4 The waiting time for the formal acceptance

In the case where there are difficulties in the functioning of the CBR's plants and building sites, which makes it impossible for CBR to receive supplies from third parties and undertaking works at the foreseen rate, it reserves the right to slow down, as it sees fit, the shipments or the execution of the undertakings or to request their partial or complete suspension.

16.5. Guarantees

The enterprise will be guaranteed during 12 months after the provisional formal acceptance. During that period the cocontractor warrants the enterprise against all design defects, defects of the materials, manufacturing, functional and assembly defects, without being authorized to invoke the visibility of the defect at the time of the formal acceptance. During the same period, the cocontractor warrants the functioning and the complete security of use of the material in the circumstances of use which he declares thoroughly knowing. During the guarantee period, the maintenance, replacement or repair is the responsibility of the cocontractor and at his expenses, and this for any piece or part of the delivered installation which, under normal functioning and maintenance conditions would be defective. The works and expenses are the cocontractor's responsibility. The guarantee extends to all the functioning conditions for which instructions have been given in the special specifications and their appendixes.

Article 17 - Responsibility

17.1 The cocontractor has the complete responsibility for all damages (corporal, tangible and intangible) that he would cause to CBR or to a third party – included neighbourhood troubles -, owing to or on the occasion of the conclusion or the execution of this contract; the cocontractor holds CBR free from any claims.

The cocontractor assumes, if need be jointly with other contractors, the watch of his undertaking equipments, of his supplies and the supplies of which the assembly will be entrusted to him.

The cocontractor will enforce the security on his building site and he will take all the measures of precaution to ensure the security of his personnel or third parties, within the frame of the execution of this contract.

CBR declines any responsibility for thefts, accidents or damages, of any nature, that would occur at the cocontractor's equipments as well as at his employees' personal property.

17.2 The cocontractor will warrant his supplies and/or works against any defect, notably defects of design, material, manufacturing, assembly, functioning and security and this under conditions which are well known to him as he thus declares. Regarding this he will be held responsible for the slightest defect.

In this respect, the cocontractor will be required to replace or to repair, within the briefest period of time and at his own expenses, all the supplies and/or works that are considered defective by CBR. If the cocontractor should fail, the defective supply and/or the defective work could be repaired or replaced by CBR, or a third party designated by CBR, at the expenses and risks of the cocontractor. This provision is not detrimental to CBR's other rights and notably its right to claim compensation and interests from the cocontractor in order to repair the damages that it suffered.

Article 18 - Insurances

Before the execution of any work for CBR, the cocontractor has to subscribe and maintain in force contracts of insurance covering his civil responsibility towards third parties including CBR (operating responsibility and responsibility after delivery).

These contracts warrant the civil responsibility that could befall the cocontractor in case damages would be caused to third parties – including the neighbourhood – and resulting from his activities, his property, his personnel as well as his legal contractual or extra contractual responsibility that could befall him resulting from damages of any nature caused to third parties by supplies after delivery or by works after their formal acceptance.

The minimum insured amounts as per occurrence have to be 1.239.467,62 € for the civil responsibility and of 1.239.467,62 € as per occurrence and year for the responsibility after delivery, for all damages confounded (corporal, tangible and intangible) and without any downward limit for fire and explosion damages.

In case the cocontractor would work upon or with goods or equipments with which he has been entrusted by CBR, he will see to it that his insurer gives him adequate cover for sufficient amounts.

The cocontractor has to insure his personnel and equipment against all risks.

The cocontractor shall duly insure his employees against accidents while working and he will obtain from his legal insurer relinquishment of all claims against CBR if such an accident would occur and the responsibility of CBR could be completely or partially withheld.

Before the beginning of the works, the cocontractor will pass on to CBR a copy of the insurance certificates according to the demands above. The insurer will also take it upon himself to warn CBR in case the insurance policies would, for any reason, be suspended or terminated or if the insured amounts would be lessened.

In case the cocontractor would call subcontractors, he expressly commits himself to impose upon them the same obligations as those foreseen in this article concerning insurances.

Costs for insurances, as well as excesses and exclusions are at the sole expenses of the cocontractor.

Article 19 – Measures implemented without consultation and resolute clause

19.1 In case the cocontractor fails to fulfil one of his obligations, and notably when the cocontractor is late regarding the agreed on deadlines, which are considered as an essential element of the agreement between the parties, CBR will have the right, after having given formal notice in a registered letter left without results during eight calendar days, evidenced by the post date, without having to go to the courts

- to take the following measures without consultation:
 - order the cocontractor to stop all his works or part of those;
 - order the cocontractor to leave the building site or part of it;
 - make a third party continue and achieve the works on the expenses and risks of the failing cocontractor.

All this without other formalities than the drawing up of a progress report about the supplies and/or works already executes , indicating the quantities and their assessed value based on the prices agreed on in the special conditions as well as a list of the defects to repair. That progress report and the list will be commonly drawn up between the parties or, if not, by an expert appointed according to the provisions of article 18² hereafter;

- and by rights charge the cocontractor with a flat daily indemnity equally to 1/1000 of the amount of the order that is left to be delivered and /or executed with a minimum of 247.89 € a calendar day in lateness after sending a registered letter (without prejudice to the implementation of the following paragraphs).

All the resulting expenses and all the damages undergone by the implementation of those measures without consultation as well as all the price differences resulting from the execution, by a party other than the cocontractor, the balance of his works, will be supported by the failing cocontractor.

² This should perhaps be « article 21 ».

The amount of the indemnities as well as the compensation for damages, outlays or expenses resulting or that will result from the implementation of the measures without consultation, can be withheld by CBR from the amounts still due to the cocontractor in any capacity.

19.2 The provisions of article 16.1 do not infringe upon CBR's right to invoke, by all rights, the termination of this contract and to claim compensations and interests from the cocontractor.

- In case the cocontractor fails to fulfil one of his obligations, and notably when the cocontractor is late regarding the agreed on deadlines, after having given formal notice in a registered letter left without results during eight calendar days, evidenced by the post date;
- without giving formal notice in case of:
 - * after a voluntary liquidation, a request for a debt composition, a filing for bankruptcy, an introduction of a proceeding to request, by private negotiations or judicial, a respite to pay or any other similar proceedings.
 - * accomplishment by the cocontractor of actions forbidden or repressed by criminal law;
 - * occurrence of any event, even by acts of God, on the contractor's or one of his subcontractors' initiatives of the nature to imperil the execution of the contract within the agreed on deadlines;
 - * removal from the list of registered building contractors.

Article 20 – Choice of the domicile or registered address

The cocontractor will take up residence in Belgium and he will notify this choice to CBR on the very day of the contract signature.

CBR elects residence at its registered address, chaussée de La Hulpe, 185 in Watermael-Boitsfort (1170 Brussels).

Article 21 - Assessment

In case of dispute between the parties concerning the existence, the causes, the responsibilities, the extent and the assessment of the damages resulting from the non conformity, the defects affecting the supplies and/or the works of the cocontractor, or caused by accidents or any other circumstance, to the installations, the equipment of part of these, the parties will have appointed, without prejudice to their rights and without any detrimental acknowledgement, and at the request of the most diligent party, by the Chairman of the Court of Commerce in Brussels, an expert with the mission to accomplish as soon as possible:

- to describe the non conformities, defects or defects caused by bad workmanship and the circumstances of the accident or of the fact generating the damage;
- to call for any protective measures in order to ensure the pursuit or the resumption, the soonest possible, of the works which are the contract's object and to avoid the repetition of facts of the same nature as well as to authorize, if need be, the immediate pursuit or resumption of the building site,
- determine the causes and the responsibilities, to carry out all the investigations and take all the useful samples to that effect;
- describe and assess the suffered damage;
- carry out all investigations and duties useful for the solution of the dispute between the parties.

The parties agree, as from now, that the thus appointed expert will be authorized to call them for any meeting, by telex, telegram or fax, with a 24 hours notice, and they take it upon them to do all what it takes in order to let his mission take place in the best of conditions and as soon as possible, at the risk, for the careless party, to incur compensation and interests.

Article 22 – Registration as a building contractor

22.1 The cocontractor declares that he is a registered contractor according the provisions of articles 59 and 61 of the law for economical reorientation of the 4th of august 1979, and of the royal decree of the 5th of October 1978.

22.2 In case the cocontractor should be removed from the list of registered building contractors, he takes it upon himself to warn CBR by registered mail, within three days of the notification of his removing by his registration committee and, in any case, before requesting any payment after the removal, and on the risk of having to support, by rights, the amount of the fines or tax and social increases to which CBR would be possibly submitted given the fact of the infringing on the provisions of the said articles 59 and 61. Without prejudice to the provisions of article 16.2, CBR has the right, from of the removal from the registration list, to suspend all the payments to the removed cocontractor.

Article 23 – Applicable law – Court of competent jurisdiction

Only the Belgian law is applicable.

All disputes about the interpretation, the conclusion or the execution of this agreement that could not be settled by common consent will be introduced before the courts of the arrondissement Brussels.

However, CBR reserves the right to introduce such a dispute before the courts of the judicial arrondissement of the domicile or registered address of the cocontractor and, if need be, before the courts of the judicial arrondissement of the place where the contract is executed.