

Houweling Group | General purchase conditions (EN)

Article 1 Definitions

In these general conditions the following terms are used in the following sense.

User: the user of the general conditions, i.e. the private companies Houweling International bv, Houweling Transport bv, Houweling Horticulture bv, Houweling Veiligheid bv, Houweling Holding bv, Houweling Warehousing bv, Dutch Grow bv and European Polymer Logistics bv;

The other party: the counterparty;

Agreement: the agreement relating to the delivery of goods and services to the user;

Delivery: the goods and services that have to be delivered by the other party to the user on the basis of the agreement.

Article 2 Applicability

1. These conditions apply to all agreements within the meaning of Article 1 of these terms and to offers delivered to the user with a view to concluding such agreements.
2. Abnormal conditions, such as sales conditions of the other party, only bind users if this has been expressly agreed upon in writing and by the management of the user for each case separately. The other party waives the applicability of its own terms by handing out an offer to the user, regardless of what the offer or the subsequent agreement has determined thereabout.
3. In case of conflict between these general terms and other general terms with the applicability to which user has agreed, these terms shall prevail.
4. If any other general conditions apply to any agreement, the general terms which have the most appropriate nature for the agreement will always prevail.

Article 3 Offers and Deals

1. Every request of a user to make an offer is completely without obligation and only leads to the conclusion of an agreement between the parties when the agreement has been confirmed in writing by the user.
2. The offer of the other party has a validity period of ninety days, unless otherwise stated in the request for offer by the user, in which case that period will apply. The user will, in relation to an offer that has to be made, not reimburse any costs or damages to the other party, unless otherwise agreed in writing.

Article 4 Intellectual property

Intellectual property rights and other individual rights arising from the submission of an offer to the user and at the execution of the agreement will remain with the user. If necessary the opposite party will transfer such rights to the user in advance.

Article 5 Quality

The other party guarantees that the delivered items and services comply with the agreement and with all public and private standards applicable with respect to these items and services.

Article 6 Secrecy

1. The parties bind themselves to not disclose in any way all that comes to their knowledge and of which the confidentiality is known or can reasonably be assumed when requesting an offer, issuing an offer, drawing up an agreement and the execution of them, unless this is necessary for the execution of the agreement.
2. The parties will also submit their employees and other persons engaged by them to the secrecy mentioned in the first paragraph.

Article 7 Compliance

1. If one of the parties culpably comes short in the fulfillment of the contract, the other party will declare the shortcoming party in default by registered letter before it uses its right to which it is legally entitled as a creditor but not if failure based on the law without notice of default occurs. Each party has the right to terminate the agreement immediately and extrajudicially if the other party is in default. The dissolution can only be effected by registered letter or by writ.
2. The other party can only invoke force majeure if it has directly and as soon as possible informed the user about the facts and circumstances that prevent it from fulfilling the agreement properly and if it hands over evidence of this to the user as soon as possible.

Article 8 Liability and insurance

1. The other party is liable for all damage caused by the not proper performance of the agreement, including full consequential damage that occurs when the user uses the delivered goods or services for delivery or service to third parties and if the user is consequently liable against those third parties.
2. The other party shall insure themselves adequately against the risk of liability referred to in the first paragraph of this article.
3. The other party shall indemnify the user of any claims by third parties on damage caused to the third party due to the use or application of the supplied goods or services of the other party.

Article 9 Rates, agreement variations

1. The other party will implement the agreement at the rates quoted in the offer.
2. Extra work that has to be paid by the user is only the case if the user has agreed, in written, to the execution of additional work and the requested cost therefor, provided that settlement of extra work will be done at no more than the highest rates quoted in the offer. If prices and tariffs for more or less work are not included in the offer and cannot be deducted from that, the settlement of more work and less work will be settled at market rates.

Article 10 Billing and Payment

1. The other party will always include, in addition to the minimum legally required mentions, the IBAN and the name of the bank account to which payments should be made and the invoice amount without and plus VAT on their invoices.
2. The payment term is 60 days from the date of the invoice. The user will always be entitled to postpone the payment of the invoice amount if goods or services don't comply with the agreement, depending on the shortcoming.

Article 11 Transfer of rights and obligations

1. The other party may not assign, pledge or transfer under any title the rights and obligations arising under the agreement to a third party without prior written consent.
2. The user is authorized under the agreement between the parties to transfer its rights and obligations to an affiliated group company. As far as required the other party gives its consent in advance under Article 6: 159 BW by entering into the agreement with the user.

Article 12 Suspension and termination

1. The user is authorized to suspend or terminate the agreement on fulfillment of obligations to the other party if:
 - the other party does not fully comply with its obligations under the agreement between the parties;
 - the user learns about circumstances after the conclusion of the agreement that give good reason to fear that the other party will not fulfill its obligations;
 - the other party has been requested when concluding the agreement to provide security for the fulfillment of his obligations under the agreement and this security fails or is insufficient.
2. Furthermore, the user is authorized to dissolve the agreement (have the agreement dissolved) if circumstances arise of such nature that fulfillment of the agreement becomes impossible or cannot be longer expected subject to standards of reasonableness and fairness or whenever circumstances in a different way arise of such nature that the unaltered maintenance of the agreement cannot reasonably be expected.
3. If the agreement is dissolved, the user's claims against the other party are immediately due and payable.
4. If the user suspends the fulfillment of the obligations, he retains his rights under the law and agreement.
5. The user always retains the right to claim damages.

Article 13 Applicable law and disputes

1. All disputes arising from an agreement between the user and the other party will be submitted to the competent court in Rotterdam. Nevertheless the user has the right to submit the dispute to the competent court according to law.
2. Any agreement between the user and the other party is governed by Dutch law.
3. The applicability of the Vienna Trade Treaty (United Nations Convention on Contracts for the International Sale of Goods) is explicitly excluded.