

General quotation, delivery and payment conditions of the members of the Royal CBM interior finishers section

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ARTICLE 1 APPLICABILITY

1. These conditions apply to all agreements and offers originating from the contractor, irrespective of whether the contract was won through tendering or otherwise.
2. The CBM member who uses these conditions will be referred to as the contractor. The other party is referred to as the client.
3. The general conditions (of tendering) applied by the client are not applicable unless they have been explicitly accepted by the contractor in writing.

ARTICLE 2 QUOTATIONS

1. All quoted prices are net, exclusive of turnover tax and are based on execution during normal working hours. An offer is only binding for the contractor if expressly stated in writing. An offer that is binding for the contractor on the basis of the provisions stipulated herein expires after 30 days from the date of the offer.
2. If the client provides the contractor with data, drawings, etc., the contractor may assume these are correct and complete and base its quote on this information.
3. The contractor has the right to charge increases in wages, raw materials prices, transport costs, exchange rates, insurance premiums and government levies (in particular taxes) to the client for activities and/or (parts of) interiors to be installed which, at the time of these increases taking effect, are still to be performed and/or supplied by the contractor.
4. The contractor reserves the right to make minor changes to the structure, insofar as this does not result in any substantial changes to the work. With due observance of the provisions of paragraph 3 of this article, the quoted prices are fixed for the duration of the work unless indexation has been agreed. If indexation has been agreed, it will be based on the price index figure, series domestic production as published by Statistics Netherlands unless otherwise agreed.

ARTICLE 3 INTELLECTUAL PROPERTY RIGHT

1. Unless otherwise agreed in writing, the contractor retains the copyrights and all other industrial property rights to the designs, images, drawings, sketches and/or offers, etc. made by it.
2. Without the written permission of the contractor, the drawings, designs, images, sketches and/or offers provided by it may not be copied, shown to third parties or used in any other way.
3. The drawings, designs, images, sketches and/or quotations provided by the contractor must be returned to the contractor immediately if the contract is not awarded to the contractor.
4. If the client acts contrary to the provisions of paragraphs 2 and 3 of this article, he owes a fine of ten percent of the quoted price. Payment of this fine does not constitute a transmission of ownership and copyright.

ARTICLE 4 CONFIRMATION OF THE ORDER

1. The agreement between the contractor and the client is confirmed by the contractor in writing, which confirmation constitutes conclusive evidence.
2. Changes in the agreement and deviations from these General Terms and Conditions apply only if they have been agreed between the contractor and the client in writing.

ARTICLE 5 SCOPE OF THE WORK

1. The client must ensure that all permits, exemptions and other decisions needed to carry out the work have been obtained in due time. The client is obliged to send a copy of the aforesaid documents to the contractor on demand of the latter unless otherwise agreed in writing.
2. Unless otherwise agreed in writing, the price of the work does not include:
 - a) The costs of groundwork, pile driving, cutting, demolition work, foundation work, masonry, carpentry, plastering, painting, wallpapering, repair work or other construction work of any kind;
 - b) Connection charges for gas, water, electricity or other infrastructural facilities;
 - c) The costs of preventing or limiting damage to goods at or near the work;
 - d) The costs for disposal of materials, building materials or waste.

ARTICLE 6 CONTRACT VARIATIONS

1. Provided additional costs arise from this, all changes to the agreement will be due in the form as contract extras and insofar as these result in fewer costs, they will be charged as contract reductions.
2. Irrespective of the obligation to pay the principal sum, contract extras will be settled equitably.

ARTICLE 7 EXECUTION OF THE WORK

Unless otherwise agreed in writing, the client, subject to compensation of damage and costs, is obliged to ensure:

- a) that the location where the goods, materials and/or tools must be stored or where delivery must be made is such that damage, in whatever way, form or shape, or theft, is not possible;
- b) that access to the location where the delivery and/or assembly must take place is unobstructed and adequate and furthermore that all cooperation is provided to enable a smooth delivery, assembly and/or completion;
- c) that, if a hoist, lift or other means of transport is to be used, this is made available with operation by and at the expense of the client. The tool to be used must comply with the government regulations in force at the time of use. Damage resulting from this will be at the expense of the client unless it is established that the contractor is at fault;
- d) that sub-surfaces and floors are free from limestone, cement and other dirt residues, as well as from any loose particles and that if necessary, they are completely flat and level and delivered broom clean unless otherwise agreed in writing.
- e) that electricity, adequate ventilation, water and if necessary, heating are all provided for in the room in which the work is to be carried out;
- f) that if others are to perform work in the relevant room as well, those others and the contractor can carry out their work unimpeded when working at the same time;
- g) that in the case of refurbishment work and/or renovation of the interior, the business premises are closed to the public whilst the work is being carried out.

ARTICLE 8 DELIVERY TIME

1. The delivery time commences as soon as the agreement is concluded and all information required for the execution of the work is in the possession of the contractor. The client must inform the contractor in good time of all data and options that are necessary for the progress of the work.
2. The stated delivery times are not to be regarded as final deadlines. Therefore, merely exceeding this time period does not cause the contractor to be in default by operation of law and does not entitle the client to proceed to terminate the agreement. For this, the contractor must be given notice of default first.

ARTICLE 9 RISK AND STORAGE

1. Unless otherwise agreed in writing, the risk of the goods, materials and work carried out passes to the client from the moment they have been delivered at the place of destination or from the moment the work has commenced.
2. If through no fault of the contractor, delivery cannot be made in time, the goods will be stored at the expense and risk of the client.
3. When exceeding any payment term, the contractor has the right to store the goods at the expense and risk of the client and to postpone the first delivery until all overdue instalments are paid.

ARTICLE 10 RETENTION OF TITLE AND UNDISCLOSED PLEDGE

1. All goods delivered on or near the work remain the property of the contractor until the client has fully complied with its payment obligations, including those pertaining to contract extras, additional costs and interim price increases.
2. In addition, the goods are delivered encumbered with an undisclosed pledge in favour of the contractor. The client undertakes to cooperate with the legal establishment requirements of the undisclosed pledge, as soon as the contractor requests the client to do so.
3. These rights of pledge serve to provide for additional security regarding all claims the contractor has against the client, for whatever reason.
4. Any intervention by third parties must be reported by the client immediately. Costs and/or losses as a result of failing to report immediately will be at the expense of the client.

ARTICLE 11 PAYMENT

- Unless otherwise agreed by the parties in writing, the following payment arrangement applies:
30% upon instruction
30% upon commencement of the work;
30% upon commencement of assembly;
10% upon completion of assembly or commissioning before assembly is finished.
- In respect of the fourth payment, the client may withhold 5% of the principal sum as security for the warranty referred to in Article 16, paragraph 1 and for any minor points yet to be completed. This deducted amount will become due as soon as the contractor has fulfilled said guarantee obligation.
- If at the request of the client, the execution of the assignment is delayed or because the client fails to fulfil its obligations in time, or fails to timely enable the contractor to finalise the work or to perform the necessary work to that end, the contractor will be entitled to demand payment of any outstanding instalments at the times when these instalments would have become due in the event of normal execution of the assignment. If as a result of the delay, the contractor has to store completed goods, the contractor will be entitled to charge storage costs.
- If the client fails to pay within 14 days of the due date, the client will be in default without a notice of default being required.
- As from the due date, the client owes interest payments of 1% of the invoice amount for each month, or every part thereof, by which the due date is exceeded.
- By virtue of the mere conclusion of the agreement, the client is obliged to reimburse the extrajudicial collection costs, including administration costs and the costs of legal assistance and consultation prior to the procedure. The extrajudicial collection costs are calculated as follows:

Principal amount (up to)	Applicable percentage	Maximum
€2,500	15% of the principal sum	€375
€5,000	€ 375 plus 10% of the (principal sum – € 2,500)	€625
€10,000	€625 plus 5% of the (principal sum – €5,000)	€875
€200,000	€875 plus 1% of the (principal sum – €10,000)	€2,775
In excess of € 200,000	€2,775 plus 0.5% of the (principal sum - €200,000)	€6,775

The extrajudicial recovery costs are subject to a minimum of €40.

ARTICLE 12 RESPONSIBILITY FOR THE WORK

- The contractor is responsible for the proper performance of the work.
- The contractor does not accept responsibility for a design developed by the client and/or third parties, including the specification of the stated dimensions and materials.
- In the case referred to in paragraph 2, the contractor will only be responsible for the correct assembly and guarantees the soundness of the materials. However, this does not apply if the client or third parties prescribe a specific brand or treatment of materials.
- If responsibility for the design is transferred by the client to the contractor, this must be expressly agreed in writing.
- If the client makes materials or parts available for further processing or assembly, the contractor will be responsible for correct processing and assembly but never for the materials or parts themselves.

ARTICLE 13 LIMITATION OF LIABILITY

- The liability of the contractor for damage caused by defects in the goods delivered will be limited to the net invoice amount of the goods.
- The contractor will not be liable for any indirect damage, including damage suffered by third parties or loss of profit.
- The contractor will not be liable for damage related to (faulty) structures or materials prescribed by the client or the material or share of the work delivered by the client or delivered by third parties on the client's instruction.
- In the case referred to in paragraph 3, the client fully indemnifies the contractor against all claims for compensation of damage incurred by staff of the contractor and/or third parties, including damage on account of or resulting from product liability.

ARTICLE 14 DISSOLUTION

- If the client fails to fulfil its obligations it is subject to under any agreement concluded with the contractor, or if it fails to fulfil these timely or properly, as well as in the case of bankruptcy or suspension of payment by the client or in the event of shutdown or winding-up of its company,

the client will be deemed to be in default by operation of law without any notice of default being required. In that case, the contractor, without judicial intervention, will be entitled to dissolve any existing contracts between the contractor and the client, insofar as they have not yet been performed, and to demand payment from the client for any work and/or deliveries already carried out, as well as compensation for damage, costs and interest caused by the client's breaches of contract and the dissolution of the contract, including loss of profit by the contractor.

- In the cases referred to in paragraph 1, every claim of the contractor against the client will become immediately due and payable.

ARTICLE 15 NON-ATTRIBUTABLE SHORTCOMING

- A non-attributable shortcoming is taken to mean circumstances that could not have been foreseen by the contractor and which are beyond its control.
- The contractor will be entitled to suspend fulfilment of its obligations if a non-attributable shortcoming temporarily prevents the contractor from fulfilling its obligations.
- A non-attributable shortcoming includes suppliers and/or subcontractors of the contractor not fulfilling their obligations or not fulfilling them in time, weather conditions, earthquakes, fire, loss or theft of tools, the loss of materials to be processed, roadblocks, strikes or walkouts and import and trade restrictions.
- The contractor is no longer entitled to suspend if the temporary impossibility to perform has lasted for more than six months. The agreement can only be dissolved after the expiry of this term and only for those obligations not yet fulfilled. In that case, the parties are not entitled to compensation for any damage or loss suffered or to be suffered as a result of the dissolution.

ARTICLE 16 WARRANTY

- The contractor guarantees the proper execution of the agreed performance for a period of six months after delivery or completion. Defects which by their nature can only be discovered after a longer period of time are covered by a warranty period of one year after the first delivery.
- The client can only claim under the warranty subject to the client fulfilling all its obligations towards the contractor.
- In the event of partial delivery of the work, the warranty periods start upon delivery of these parts.
- Warranty is only valid in the event of normal use and under normal conditions. This includes ensuring sufficient humidity in the atmosphere, no exposure to excessive dryness, cold, heat, etc.
- The warranty is not valid:
 - In the event of defects that have already been repaired by third parties.
 - In the event materials and structures prescribed by the client or third parties.
 - In the event of glass, discolouration of wood and minor colour differences in wood and other materials.
 - In the event of normal wear and tear.
 - In the event of improper use.

ARTICLE 17 COMPLAINTS

The client cannot invoke a defect in the performance of the contract if he fails to report the defect to the contracted party in writing within 14 days after he discovered or should reasonably have discovered the defect, providing a clear description of said defect.

ARTICLE 18 DISPUTES

- All offers, agreements and the execution thereof are exclusively governed by the laws of the Netherlands.
- All disputes, insofar as they exceed the jurisdiction of the sub-district court, will be settled by the court in the district where the contractor has its registered office.

ARTICLE 19 FINAL PROVISION

These general quotation, delivery and payment conditions can be referred to as the "General quotation, delivery and payment conditions of the Royal CBM Interior Finishers section", filed at the Registry of the District Court of Noord-Holland in Haarlem on 04 September 2018, under file reference number 39/2018