

GENERAL TERMS AND CONDITIONS OF PURCHASE OF SWEGON NEDERLAND B.V.

General Terms and Conditions of Purchase of the Swegon Nederland B.V., with its registered office at Tielstraat 19 in Waalwijk (The Netherlands) and its affiliated companies.
Registered with the Chamber of Commerce of Brabant (Tilburg) under the number 17260502.

1. Applicability of terms and conditions

1.1 These General Terms and Conditions of Purchase apply to all offer requests, orders, and agreements concerning the delivery of goods and the performance of work by the contractor (hereinafter referred to as the "Supplier") for the benefit of Swegon Nederland B.V. or its subsidiaries and affiliated companies (hereinafter referred to as "Swegon NL").
1.2 Deviations from or additions to these General Terms and Conditions of Purchase require the express written consent of Swegon NL.
1.3 General terms and conditions (of sale) of the supplier are in no case applicable to the agreement between Swegon NL and the supplier and are hereby expressly rejected.

2. Order and order confirmation

2.1 Swegon NL reserves the right to cancel an order it has issued or placed if the supplier has not confirmed the order in writing by means of an order confirmation within five (5) working days of receipt of the order.
2.2 If the order confirmation deviates from the original order, then Swegon NL is only bound once it has expressly agreed in writing to the deviation.
2.3 Swegon NL's acceptance of deliveries or performances as well as the payments made by Swegon NL in that regard do not imply acknowledgement of deviations.
2.4 The documents and samples possibly received together with an offer will not be returned by Swegon NL.

3. Quality and status of the delivery

3.1 The supplier guarantees that the delivery:

- will be of good quality and free of defects in case of delivery of goods and that in case of performance of work, that work will be performed by skilled personnel using new materials;
- will be entirely in accordance with the provisions in the agreement, the specified specifications, and the reasonable expectations of Swegon NL as far as the properties, quality, and reliability of the delivery are concerned;
- is suitable for the purpose for which the delivery is destined as appears from the nature of the items or pursuant to the order;
- fulfills the legal requirements prevailing in the Netherlands and the other applicable (international) governmental regulations;
- fulfills the norms and standards accepted in the concerned branch of the trade or industry;
- fulfills the CE marking and the EC declaration of conformity for machines / safety components or "manufacturer's declaration", respectively, in conformity with the legal European directives; the supplier will provide the EC declaration of conformity with the corresponding Declaration of Performance (DoP).

3.2 If the agreement refers to technical, safety, quality, environmental or other regulations and documents that have not been added to the agreement, then the supplier shall be presumed to know them, unless the supplier forthwith notifies Swegon NL in writing of the contrary. Swegon NL will then inform the supplier in more detail about these regulations and documents.

3.3 The supplier will actively strive to minimise the impact of its products, packaging, and raw and ancillary materials on the environment.

3.4 Work that can negatively impact the environment, e.g. emissions into the air, water or soil, must expressly be reported in advance.

3.5 The supplier must ensure, at its own expense, that the supplier timely obtains consent, permits or licenses required for the fulfilment of the agreement and that the supplier complies with the conditions stipulated therein.

4. Intellectual property rights; licenses

4.1 If intellectual property rights are attached to the delivery or related documents, Swegon NL will obtain the right of use thereof free of charge by means of a non-exclusive, worldwide, perpetual license.
4.2 All intellectual property rights arising as a consequence of the performance of the delivery by the supplier, its personnel or third parties involved in the fulfillment of the agreement by the supplier, will be vested in Swegon NL.
4.3 On the first demand of Swegon NL, the supplier must do everything necessary to acquire and secure those rights.
4.4 The supplier guarantees that the delivery does not constitute an infringement of intellectual property rights of third parties.
4.5 The supplier will hold Swegon NL harmless against claims of third parties pursuant to (alleged) infringements in the matter and will compensate Swegon NL for all losses suffered as a consequence thereof.

5. Packaging and shipment

5.1 The supplier will package the goods to be delivered in an as economical, safe, and careful manner as possible and in such fashion that the shipment remains manageable during transport and unloading.
5.2 The supplier will ensure that the delivery reaches its destination in good condition. Palletized shipments are performed using suitable pallets of a good and sound quality.
5.3 In order to encourage reuse of packaging, as much neutral packaging without print as possible is used. Packaging must be suitable for reuse or recycling.
5.4 Special packaging that must be returned to the supplier must be marked as such.
5.5 The packaging, the transport, and the processing of the delivery must fulfill the applicable laws and regulations regarding safety, environment, and working conditions.
5.6 If there are safety data sheets of a delivery or the packaging, then the supplier must always and immediately deliver these sheets (along).
5.7 The supplier will mark the shipment with the Swegon NL order number, reference number, and the number of packages, as well as the correct name and address information of the delivery address. A packing list will be affixed to the exterior of the packages/pallet, specifying the contents of the packages/pallet.
5.8 A delivery that does not fulfill the above requirements can be refused by Swegon NL.

6. Delivery

6.1 The delivery is performed "Delivery Duty Paid" in accordance with the version of the Incoterms prevailing at the moment of the order, subject to the provisions in these terms and conditions.
6.2 Partial deliveries are not permitted, except with the written consent of Swegon NL.
6.3 The delivery date, dates or period of the agreement are strict and firm and apply to the entire delivery, including ancillary drawings or other documents.
6.4 The supplier must forthwith inform Swegon NL if circumstances arise pursuant to which it can be anticipated that an agreed delivery date, dates or period will be exceeded.
6.5 If the supplier exceeds any agreed delivery date, dates of period(s), Swegon NL is entitled to impose, without prior notice of default, a penalty on the supplier of 1 % of the price of the delivery per calendar week or a part of a calendar week that the terms of delivery are exceeded, up to a maximum of 10%, which will be immediately payable on the date that it is imposed.
6.6 The imposition, collection or set-off of this penalty does not prejudice Swegon NL's right to performance, damages ensuing from late delivery, and dissolution.

7. Inspections

7.1 Swegon NL has the right to have the delivery inspected or audited prior to the moment of delivery by officials it has designated for that purpose.
7.2 The supplier must render all required cooperation to this inspection or audit.
7.3 The supplier cannot derive rights in advance from the outcome of an inspection. Before accepting the delivery, Swegon NL has the right to inspect the delivery at the moment of delivery at the agreed location.
7.4 If the delivery is rejected, Swegon NL will inform the supplier accordingly and Swegon NL can at its option require replacement or repair or proceed to dissolve or cancel the agreement.
7.5 All of the above does not affect Swegon NL's right to damages.
7.6 All costs related to inspections and re-inspections are at the expense of the supplier, except the costs of the inspection officials designated by Swegon NL.

8. Passing of ownership and risk

8.1 The delivery remains at the risk of the supplier until it has arrived at the agreed delivery location and been accepted by a competent person on behalf of Swegon NL indicating his or her name on the delivery documents or man-day register.
8.2 The ownership of the delivery passes to Swegon NL at the moment of delivery. Models, moulds, templates, shapes, components, drawings, etc. acquired or created by the supplier for the delivery, are presumed to have been made available to Swegon NL by the supplier at the moment that these items are delivered to or created by the supplier.
8.3 If Swegon NL makes items available to the supplier for the benefit of the delivery or is deemed to have done so, then these items will remain or become the property of Swegon NL and the supplier is required to keep these items clearly marked as the property of Swegon NL and to provide Swegon NL with a statement of ownership when requested.
8.4 Items created through combination, mixing or otherwise will become property of Swegon NL at the moment of their creation.
8.5 The supplier is deemed to have created these new items for Swegon NL and will keep these items as the property of Swegon NL and provide Swegon NL with a statement of ownership when requested.

9. Price, invoicing, and payment

9.1 The agreed price is fixed in euros or at the exchange rate determined jointly on the date of the agreement, excluding VAT.
9.2 Invoices must be submitted bearing the name and address information of the supplier, the bank account number of the supplier, the VAT number of the supplier, the number of the order or project to which the invoice applies, and an itemisation per position stating position number(s) and work performed or products delivered. They must also be prepared in conformity with the prevailing laws and regulations. Duplicates of an invoice must be identified as such.
9.3 As long as this information is missing, Swegon NL is entitled to suspend its payment obligation.
9.4 Swegon NL will pay within 60 days after acceptance of the delivery and after accurate invoicing.
9.5 Payment shall never constitute a waiver of any right to reconsider the fulfillment of the order.
9.6 The supplier is responsible for all losses in conformity with Clause 11, of whatever nature, including administrative penalties and/or other punitive measures, arisen in the context of the delivery and is obliged to compensate all losses suffered by the client or third parties as a consequence.
9.7 Swegon NL is authorised to set off its eligible claims with the eligible debts to the supplier by means of a set-off statement. Swegon NL can require a deposit or bank guarantee at the expense of the supplier before it makes the components available or in the case of a full or partial advance payment.
9.8 The supplier is not permitted to pledge or alienate for any value claims the supplier has or acquires on Swegon NL without the written consent of Swegon NL.
9.9 The supplier will also present the following documents to our accounts department (if applicable):

- Extract of Chamber of Commerce (dated maximum one (1) year before delivery);
- Statement of Tax Authorities / Industrial Insurance Board regarding payment record (dated maximum three (3) months before delivery);
- Copy of G-account (guarantee account) agreement;
- Man-day register signed by Swegon NL.

10. Changes; additional and reduced work

10.1 Swegon NL has the right to change the size of the delivery, even if this yields additional or reduced work.
10.2 If the supplier believes that the changes have an impact on the agreed price or delivery period, then the supplier will forthwith notify Swegon NL in writing thereof and, in case of additional work, issue a written offer pertaining to the price and the period attached to it, as well as the consequences for the remainder of the work to be performed by the supplier. The net price level of the additional work must correspond with the net price level of the main order.
10.3 Additional work will be performed by the supplier only after the written order has been issued by Swegon NL.
10.4 Additional work shall never include work the supplier could or should have foreseen at the conclusion of the agreement in order to be able to deliver the agreed performance(s) and functionality (or functionalities) nor work that is the consequence of a shortcoming of the supplier.

11. Liability

11.1 The supplier is liable for all losses suffered by Swegon NL as a consequence of the failure, attributable to the supplier, to fulfill, to timely fulfill or to properly fulfill the agreement or of the breach, attributable to the supplier, of any other contractual or non-contractual obligation.
11.2 The supplier will hold Swegon NL harmless from any claim of third parties in that respect.
11.3 The liability of the supplier is at least up to an amount of two million (2,000,000) euros or the contract price per occurrence of loss if the latter amount is higher, except in the case of personal injury or damage due to gross negligence or intention.
11.4 The supplier will adequately insure its liability towards Swegon NL in this matter pursuant to the law and/or agreement and maintain this insurance and will furthermore insure all risks in its operations that can be insured under normal conditions and maintain them insured.
11.5 Upon the request of Swegon NL, the supplier will forthwith present (a certified copy of) the policies and evidence of payment of premiums.
11.6 The supplier hereby assigns to Swegon NL in advance all claims to payments of insurance proceeds, insofar as they relate to losses for which the supplier is liable towards Swegon NL.

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12. Dissolution

Without prejudice to rights to which Swegon NL is further entitled, Swegon NL has the right to fully or partially dissolve the agreement without further notice of default by means of a written statement, if:

- The supplier has failed to fulfill one or more obligations arising from the agreement;
- The supplier has been put into involuntary liquidation, has petitioned for suspension of payments, has closed down or wound up its company, a significant part of its assets has been seized or is transferring its company to third parties;
- Rejection takes place after inspection or re-inspection. In the case of dissolution, the risk of items already delivered stays with the supplier. In that case, the items are at the disposal of the supplier and must be picked up by the supplier.

12.2 The supplier will refund everything that has already been paid by Swegon NL within the scope of the dissolved agreement.

13. Warranty

13.1 If the delivery does not appear to fulfill the provisions in Clause 3 of these terms and conditions within the warranty period, then the supplier will replace, repair or again perform the delivery at its expense at the first notice and discretion of Swegon NL, without prejudice to the rights to which Swegon NL is entitled to pursuant to the law.

13.2 If the supplier fails to fulfill its warranty obligations, then Swegon NL has the right to proceed to replace, repair or again perform the delivery at the expense of the supplier, with or without the assistance of third parties.

13.3 Swegon NL will inform the supplier as much as possible in advance of its use of this right.

13.4 If the parties have not agreed on a warranty period, then the warranty period is twenty-four (24) months after the date of delivery.

13.5 For items destined to be incorporated in installations or systems, the warranty period will only begin at the commissioning of those installations or systems, provided that the warranty period is at least equal to the warranty/maintenance period agreed between Swegon NL and its client.

13.6 The warranty period will be extended with the period in which the delivery did not fulfill Clause 3 of these terms and conditions.

13.7 The replaced, repaired or re-performed parts of the delivery are subject to a new warranty period, equal to the original warranty period.

14. Confidentiality and obligation to provide information

14.1 The supplier will provide Swegon NL with all information concerning the delivery that could be important to Swegon NL.

14.2 The supplier will not provide confidential information pertaining to the delivery to its own employees involved in the delivery, nor to third parties, unless Swegon NL has granted written consent for this in advance.

14.3 The supplier is not allowed to use the name Swegon NL in advertisements and other commercial messages without the prior written consent of Swegon NL.

15. US Export Administration Regulations

15.1 If American technology subject to the US Export Administration Regulations or to export regulations of the EU or an EU member state has been incorporated in a delivery, then the supplier must make this known to Swegon NL in conformity with the provisions specific to that situation.

16. Suppliers code of conduct

16.1 If the performance also takes place on the site(s) of Swegon NL or of clients of Swegon NL, then the supplier or third parties involved by it will be obliged to observe the laws and regulations prevailing there, as well as the internal rules of Swegon NL or of the client of Swegon NL.

16.2 The supplier is obliged to provide employees who speak Dutch, German or English in order to be able to ensure proper communication. 16.3 The supplier will not attempt to hire employees of Swegon NL.

17. Performance of the work

17.1 Without the prior written consent of Swegon NL, to which conditions can be attached, the supplier is not permitted to partially or fully transfer or subcontract the fulfillment of an agreement for the performance of work (delivery) to third parties.

17.2 Transfer/subcontracting does not affect the obligations the supplier has towards Swegon NL pursuant to the agreement.

17.3 Swegon NL has the right to change the commencement and/or sequence of the work to be performed if Swegon NL considers this desirable in connection with the progress of the work, without being obliged to compensate for damage and costs.

17.4 The supplier / contractor itself takes care of all approved and required auxiliary materials and materials such as scaffolding, aerial work platforms, and suchlike at its own expense and risk. These materials and auxiliary materials must be of sound quality and must comply with the prevailing legal requirements and regulations.

17.5 The supplier is liable for all damage of whatever nature, including administrative penalties and/or other punitive measures, arisen in the context of the fulfillment of the order and is liable to pay compensation for all damage suffered by the client or third parties as a consequence.

17.6 The supplier will maintain records that are legally accurate to such an extent that the actual wage costs can be determined.

17.7 These wage costs will, when applicable (service labour work carried out), be specified on the invoice.

17.8 Swegon NL has the authority to pay a part of the order amount to be determined by Swegon NL, either via a blocked account (G-account or guarantee account) or directly to the concerned Industrial Insurance Board and the Tax Authorities.

17.9 This part will concern the amount for which Swegon NL assesses itself to be jointly and severally liable pursuant to the Dutch Wages and Salaries Tax and Social Security Contributions (Liability of Subcontractors) Act (Wet Ketenaansprakelijkheid) or other regulations. In those cases,

17.10 The supplier will hold Swegon NL harmless against any claim from the Industrial Insurance Board or the Tax Authorities in this matter.

17.11 The supplier is obliged to comply with the Dutch Foreign Nationals (Employment) Act (Wet Arbeid Vreemdelingen, WAV).

17.12 The supplier is obliged to provide managerial staff that has a sound command of the Dutch or English language and the concerned foreign language, if applicable, in order to be able to communicate with the employees of the contractor.

17.13 Supplier/contractor is obliged to process waste streams in conformity with the health and safety plan of the client. The employees must be VCA certified (VeiligheidsChecklist Aannemers, Safety Checklist Contractors).

17.14 At the project's site, the personnel of the supplier must wear appropriate work clothing.

17.15 At the project's site, the supplier will follow all instructions provided in the matter by Swegon NL without reservation.

17.16 If Swegon NL's order includes drawings or calculations, then the fulfillment of the order cannot commence without the approval of Swegon NL of these drawings and calculations, unless Swegon NL has granted its written consent for this.

17.17 The supplier will not issue offers to Swegon NL's principal/client that are related to the present work. If the supplier receives orders and/or instructions from the principal/client of Swegon NL, these will only be performed after the express written consent of Swegon NL.

17.18 In addition to Clause 6, the delivery (or completion) period of Swegon NL mentioned in the order is binding, provided that Swegon NL has at all times the right to change this delivery (or completion) period to a date and time to be further specified. Swegon NL will indicate when the supplier can begin its work, unless the commencement date and time is mentioned in the order. The supplier will fulfill the order with such expeditiousness, in accordance with the schedule/planning designated by Swegon NL and in consultation with the general foreman at the work site, that stagnation in the progress of the work is avoided and the supplier must for that purpose dispose of an adequate number of skilled personnel at all times. If stagnation in the progress of the work or in the delivery or completion of the work is the consequence of a circumstance that is at the expense of the supplier, Swegon NL will have the right to recover from the supplier the loss incurred as a result. If Swegon NL deems it necessary, third parties will be involved at the expense of the supplier to catch up as much as possible with the backlog or to prevent it.

18. Applicable Law and Disputes

18.1 Agreements between Swegon NL and the supplier are governed by the law of the Netherlands, with the exclusion of the Vienna Sales Convention (CISG). All disputes between Swegon NL and the supplier will be resolved by the court that is competent within the district of Den Bosch, the Netherlands.