

General Terms and Conditions for Accepting Work for Business Clients 2023 (AVA Business 2023)



Adopted by the General Board of Royal Bouwend Nederland on December 7, 2022.

Article 1: Quotation

- The quotation will be made in writing or electronically, issued, except in urgent circumstances.
- The quotation shall include, among other things:
 - the location of the work;
 - a description of the work; c. according to which drawings, technical descriptions, designs and calculations the work will be carried out; d. the time of commencement of the work; e. the period within which the work will be completed. delivered. This is determined by either a specific day, or a number of working days; f. the pricing method that will be used for the work to be carried out: contract price or cost-plus. In the contract price method, the contractor names a fixed amount for the work described in the quotation. In the cost-plus pricing method, the contractor specifies the price factors (such as hourly rates, surcharges and unit prices of the required materials). The sales tax due is stated separately in the quotation;
 - whether payment of the contract sum will be made in instalments;
 - whether a risk scheme will apply to the work, and if so which ones;
 - whether provisional items have been taken into account, and if so which ones;
 - whether quantities will be offsettable, and if so which
- the applicability of these general conditions on the quotation and on the resulting construction contract.
- The quotation is dated and is valid from that date. day for thirty days.
- Drawings, technical descriptions, designs and calculations produced by the contractor or on his behalf shall remain the property of the contractor. They may not be made available to or shown to third parties with the intention of obtaining a comparable quotation. Nor may they be reproduced. If no order is placed, these documents must be returned to the client at the expense of the client within 14 days of a request to that effect made by the contractor. to be returned to him.
- If the offer is not accepted, the contractor is entitled to charge the costs involved in preparing the quotation to the person at whose request he submitted the quotation, if he has stipulated this before submitting the quotation.

Article 2: Agreement and contract documents

- The agreement is concluded by timely acceptance of the quotation by the client.
- If an order is given by two or more clients, they are jointly and severally liable and the contractor has the right to full performance in respect of each of them.
- Any contradictions in or between contractual documents shall, with due regard for fairness, be construed to the disadvantage of the party by or on whose behalf they were drawn up. This shall not affect the obligation of the parties to warn each other in the event of apparent contradictions.

Article 3: Obligations of the client 1. Unless otherwise agreed, the client will ensure

- The client shall ensure that the contractor has timely access to:
- the data and approvals required for the design of the work (such as public-law and private-law permits), if necessary in consultation with the contractor;
 - the building, site or water in or on which the work is to be carried out;
 - sufficient facilities for the supply, storage and/or removal of building materials and resources;
 - connection facilities for electrical machinery, lighting, heating, gas, compressed air and water.
- If it is necessary to engage a quality assurance officer, the client shall ensure this unless otherwise agreed.

- The required electricity, gas and water are for client's account.
- The client is not permitted to carry out work on the work itself or have it carried out by third parties before the day on which the work is deemed to have been completed, without the permission of the client. contractor.
- Without prior written or electronic permission from the contractor, the client is not permitted to transfer his legal relationship with the contractor to a third party.

Article 4: Obligations of the contractor 1. The contractor is obliged to perform the work properly and soundly and in accordance with the provisions of the agreement. The contractor must perform the work in such a way that damage to persons, goods or the environment is limited as much as possible. The contractor is also obliged to follow the orders and instructions given by or on behalf of the client.

- The work must be carried out in such a way that completion of the work within the agreed period is assured.
- If the nature of the work so requires, the contractor shall ascertain the location of cables and pipes before commencing work.
- The contractor is deemed to be familiar with the statutory regulations and government decrees relevant to the execution of the work, insofar as these on the day of the quotation. The consequences associated with compliance with these regulations and decrees are for his account.
- The contractor is obliged to point out to the client any imperfections in constructions and working methods prescribed by or on behalf of the client and in orders and instructions given by or on behalf of the client, as well as any defects in building materials and resources made available or prescribed by the client, insofar as the contractor was aware of these or should reasonably have been aware of these.
- If the cost-plus pricing method has been agreed, the contractor will draw up weekly reports and submit them to the client. The weekly reports will include notes on the hours spent and the material processed. If the client objects to the contents of a weekly report, he will inform the contractor of this in writing or electronically as soon as possible, stating the reasons, but no later than one week after receipt of the weekly report.

Article 5: Cost-increasing circumstances 1. Cost-increasing circumstances are

- circumstances: which are of such a nature that when concluding the agreement no account needs to be taken of the possibility that they might occur, which cannot be attributed to the contractor and which increase the costs of the work.
- Cost-increasing circumstances entitle the contractor to compensation for the resulting consequences.
 - If the contractor is of the opinion that cost-increasing circumstances have occurred, he must inform the client of this as soon as possible in writing or electronically. The parties will then consult in the short term on the question of whether cost-increasing circumstances have occurred and, if so, to what extent the cost increase will be compensated in all reasonableness and fairness.
 - The client is entitled to limit, simplify or terminate the work instead of agreeing to compensation. The amount owed by the client in this case will be determined on the basis of standards of reasonableness and fairness are established.

Article 6: Additional and reduced work

1. Settlement of additional and reduced work will take place: a. in the event of changes to the agreement, well in the conditions of execution; b. in the event of deviations from the amounts of the budget items;

- in the event of deviations from quantities that can be settled;
- In the event of changes to the agreement or to the conditions of execution desired by the client, the contractor may only demand an increase in the price if he has informed the client in good time of the necessity of a resulting price increase, unless the client should have understood that necessity of his own accord.
 - Changes to the agreement or the terms of execution will - except in urgent circumstances - be agreed in writing or electronically. The lack of a written or electronic order does not affect the claims of the contractor and the client to settlement of additional or reduced work. In the absence of a written order, the proof of the change rests with the person making the claim.
 - Provisions are stated in the agreement amounts included in the contract price and intended for either a. the purchase of building materials; b. the purchase of building materials and their processing; c. the performance of activities which are not sufficiently precisely determined on the day of the agreement and which must be further specified by the client.

The agreement specifies what each item relates to.

- The expenses to be charged to a budget item are calculated using the costs incurred by the contractor for that budget item. If there is a gross budget item, these costs are increased by a contractor's fee of 10%. If there is a net budget item, only the costs incurred by the contractor for that budget item are offset against the amount of the budget item when settling the account.
- If a budget item relates exclusively to the purchase of building materials, the costs of processing them are included in the contract price and will not be settled separately. However, these costs will be settled against the budget item, on which the purchase of those building materials is settled to the extent that they are higher than those that the contractor should reasonably have taken into account due to the way in which the budget item is filled in.
- If a budget item relates to the purchasing building materials and processing them, the processing costs are not included in the contract price and are settled separately against the budget item.
- If the agreement includes quantities that can be settled and these quantities prove to be too high or too low to complete the work, if a deviation is made, a settlement will be made of the additional or reduced costs resulting from that deviation.
- If the client gives an order for the carrying out of additional work, the contractor may charge 25% of the agreed amount as an advance. The contractor may invoice the remaining portion only upon completion of the additional work or with the next instalment invoice thereafter. Unless otherwise agreed, the contractor will settle any less work with the final settlement.
- If, at the final settlement of the work, it appears that the total amount of the less work exceeds the total amount of the additional work, the contractor is entitled to an amount equal to 10% of the difference between those totals. The settlement of net budget items is not included in this.

Article 7: Payment

- If payment in instalments has been agreed, the contractor shall send the relevant term invoice to the client each time a payment term expires or after it has expired. The sales tax owed by the client to the contractor shall be stated separately.
- Payment of a submitted invoice must take place no later than 14 days after the invoice date, provided that all submitted installment invoices and invoices relating to the agreed additional work must have been paid upon delivery, without prejudice to the applicability of

Article 12 and on condition that the contractor has submitted these invoices in good time before delivery. The contractor is entitled to submit the invoice concerning the term due upon delivery 14 days before the planned delivery.

3. Within a reasonable period after the day on which the work is deemed to have been completed, the contractor shall submit the final settlement.
4. Payment of the amount owed to the contractor amount of the final settlement must take place no later than 30 days after the day on which the contractor submitted the final settlement, without prejudice to the provisions of Article 12.

Article 8: Delivery and maintenance period 1.

The work is considered to have been delivered when the contractor has communicated that the work is ready for delivery and the client has accepted the work.

On the occasion of delivery, a delivery report to be signed by both parties will be drawn up. A deficiency noted by the client that is not rectified by the client will be noted by the contractor is not recognized, it will be stated as such in the delivery report.

2. If the contractor has communicated in writing or electronically that the work is ready for delivery and the client does not indicate within 8 days thereafter whether or not he accepts the work, the work will be deemed to have been delivered.
3. If the client rejects the work, he must do so in writing or electronically, stating the defects that are the reason for rejection. Minor defects that can be conveniently repaired during the maintenance period may not be a reason for rejection, provided that they do not prevent possible commissioning.
4. If the client takes the work into use, the work is considered completed.
5. If the parties determine that, given the nature or extent of the shortcomings, delivery cannot reasonably be said to have been completed, the contractor will, after consultation with the client, specify a new date on which the work will be ready for delivery.
6. After the day on which the work is considered to have been completed, the work is at the client's risk.
7. Deficiencies acknowledged by the contractor will be restored as soon as possible.
8. After the day on which the work is considered to have been completed, a maintenance period of 30 days commences.

Article 9: Duration of execution, postponement of delivery and compensation for late delivery

1. If the period within which the work is to be completed is expressed in workable working days, a working day shall be understood to mean a calendar day, unless it falls on a generally recognized day of rest or public holiday, vacation day or other non-individual day off, or a day of rest or public holiday, or a day prescribed by the government or by or pursuant to a collective labor agreement, which day is recognized as being on the work site. Working days, or half working days, shall be considered unworkable if, due to circumstances beyond the contractor's control, the majority of the workers or machines cannot work on them for at least five hours, or at least two hours, respectively, are being worked on.
2. The contractor is entitled to an extension of the term within which the work will be completed if, due to force majeure, circumstances for which the client is responsible, or as a result of more or less work, the contractor cannot be expected to complete the work within the agreed term.
3. If the agreed construction time is exceeded, the contractor shall owe the client a fixed compensation of €50 per working day until the day on which the work is delivered to the client, except to the extent that the contractor is entitled to an extension of the construction time. For the application of this section, the day of delivery shall be deemed to be the day on which the work was ready for delivery according to the contractor, provided that the work is subsequently deemed to have been delivered, or the day on which the work is put into use by the client.
4. The fixed compensation is without notice of default is due and can be offset against what is still due to the contractor.
5. The fixed compensation amounts to a maximum of 10% of the contract price.
6. If the commencement or progress of the work is delayed by factors for which the client is responsible, the resulting

Any damages and costs arising from the contractor must be reimbursed by the client.

Article 10: Default by the client 1. If the client fails to pay the amount owed to the contractor under the agreement, he shall owe statutory commercial interest on the amount owed as of the due date. If no payment has been made within 14 days of the due date, the interest rate referred to in the previous sentence shall be increased by 2.

2. If the client fails to pay on time, the contractor is entitled to proceed to collect the amount owed, provided that he has sent the client a written or electronic reminder to pay within 14 days and that payment has not been made. If the contractor proceeds to collect, the associated extrajudicial costs are for the account of the client, provided that the amount thereof is stated in the reminder. The contractor is entitled to charge the amount in accordance with the Decree on compensation for extrajudicial collection costs.
3. If the client does not comply with what the contractor does not pay or does not pay on time, or the contractor has reasonable grounds to believe that the client owes the contractor
If the contractor fails to pay in the future or fails to pay on time, the contractor is entitled to request sufficient security from the client.
4. If the client has any liability incumbent upon him, If the contractor fails to comply with this obligation, the contractor is entitled to suspend the work until the client has complied with this obligation, or to terminate the work in an unfinished state, provided that the contractor has notified the client in advance in writing or electronically of these consequences of non-compliance. The provisions of the previous sentence do not affect the contractor's right to compensation for damages, costs and interest.
5. If the client is declared bankrupt or applies for a suspension of payments, or if a debt is claimed against him by a
If a third party imposes a lawful attachment, unless this attachment is lifted within one month, with or without security, the contractor is entitled to suspend the work without further notice or to terminate the work in an unfinished state.
6. If, on the basis of this article, there is a suspension or termination in an unfinished state, the provisions of Article 13 shall apply.

Article 11: Default by the contractor 1. If the contractor fails to fulfil his obligations with regard to the commencement or continuation of the work and the client wishes to give him notice in this regard, the client shall give him notice in writing or electronically to commence or continue the execution of the work as soon as possible.

2. The client is authorised to have the work carried out or continued by a third party if the contractor remains in default after the period stated in the notice has expired, provided that the seriousness of the shortcoming justifies this and on condition that the client has stated this in the notice. In that case, the client is entitled to compensation for the damage and costs resulting from the contractor's default.
3. The client ensures that the costs incurred for the contractor arising from the application of the previous member, remain within reasonable limits.

Article 12: Suspension of payment If the work performed does not comply with the agreement, the client has the right to suspend payment in whole or in part. The amount involved in the suspension must be in reasonable proportion to the shortcoming. The client reports the suspension and the reason for it to the contractor in writing or electronically.

Article 13: Suspension, termination of work in an unfinished state and cancellation

1. The client is authorised to suspend the execution of the work in whole or in part.
Any measures that the contractor must take as a result of the suspension and any damage suffered by the contractor as a result of the suspension will be reimbursed to the contractor.
2. If damage occurs to the work during the suspension arises, this will not be charged to the

contractor, provided that he has previously informed the client in writing or electronically of the consequences associated with the suspension.

3. If the suspension lasts longer than 14 days, the contractor may also demand that he be paid proportionally for the part of the work carried out. In doing so, account shall be taken of building materials brought to the work site that have not yet been processed but have already been paid for by the contractor.
4. If the suspension of the work lasts longer than one month, the contractor is authorized to terminate the work in an unfinished state. In that case, payment must be made in accordance with the following paragraph.
5. The client is at all times authorized to terminate the agreement in whole or in part. In that case, the contractor shall be entitled to the contract sum, increased by the costs that he had to incur as a result of the non-completion and reduced by the costs saved by the termination. The contractor shall be entitled to charge 10% of the value of the part of the work not carried out in lieu of the previous claim. The contractor shall send the client a specified final statement of what the client owes as a result of the termination.

Article 14: Liability of the client 1. The client is responsible for the accuracy of the data provided by or on behalf of him.

2. Differences between the condition of existing buildings, works and sites that became apparent during execution and the condition that the contractor could reasonably have expected, entitle the contractor to compensation for the resulting costs.
3. If, after the conclusion of the agreement, it appears that the construction site is contaminated or that the building materials resulting from the work are contaminated, the client is liable for the consequences thereof for the execution of the work.
4. The client is responsible for the constructions and working methods prescribed by him or on his behalf, including the influence exerted thereon by the soil conditions, as well as for the orders and instructions given by him or on his behalf.
5. If building materials or resources, which the
If the materials made available to the client or prescribed by him are unsuitable or defective, the consequences thereof shall be borne by the client.
6. If the client uses a subcontractor or
If the supplier has prescribed and the supplier fails to perform, fails to perform on time or fails to perform properly, the consequences thereof shall be borne by the client.
7. The client is liable for damage to the work and the damage and delay suffered by the contractor as a result of work carried out or deliveries made by the client or by third parties on his behalf.

8. The consequences of compliance with legal Government regulations or orders that come into effect after the date of the quotation shall be borne by the client, unless it can reasonably be assumed that the contractor could already have foreseen those consequences on the date of the quotation.
9. If it is required that a file be provided to the competent authority before the work may be put into use, the client is responsible for creating, maintaining and delivering this file with the correct content on time.

Article 15: Contractor's liability

15.1 Design liability

1. In the event of any deficiencies in the design, the contractor shall only be liable to the extent that these shortcomings can be attributed to him.
2. The action based on an attributable shortcoming is inadmissible if it is instituted after the expiry of five years after the expiry of the maintenance period.

15.2 Liability during the execution of the work

1. The work and its execution are for responsibility of the contractor from the time of commencement up to and including the day on which the work is completed or deemed to be completed.

2. Without prejudice to the liability of the parties under the agreement or the law, the contractor is liable for damage to the work, unless such damage is the result of extraordinary circumstances against the harmful consequences of which the contractor, in connection with the nature of the work, did not need to take appropriate measures to take and it would be unreasonable to charge him for the damage.
3. The contractor is liable for damage to other works and property of the client to the extent that this is caused by the execution of the work and is attributable to negligence, carelessness or incorrect actions of the contractor, his personnel, his subcontractors or his suppliers.
4. The contractor indemnifies the client against claims by third parties for compensation for damage, insofar as this is caused by the execution of the work and is attributable to negligence, carelessness or incorrect actions of the contractor, his personnel, his subcontractors or his suppliers.

15.3 Liability ^{after delivery}

1. After the day on which the work is deemed to have been completed, the contractor is no longer liable for any deficiencies in the work.
2. The provision in the first paragraph is subject to an exception if there is a defect: a. that becomes apparent during the maintenance period that could not reasonably have been recognized by the client upon delivery, unless the contractor demonstrates that the defect can be attributed with a high degree of probability to a circumstance attributable to the client.

can be attributed to;
b. that has come to light after the maintenance period has expired, that could not reasonably have been recognised by the client upon delivery and of which the client demonstrates that the defect can be attributed with a high degree of probability to a circumstance that can be attributed to the contractor.
3. The action on account of the defect referred to in paragraph 2 sub a shall be inadmissible if it is instituted after two years have elapsed after the expiry of the maintenance period.
4. The legal action on account of the defect referred to in paragraph 2 sub b shall be inadmissible if it is instituted after the expiry of five years after the expiry of the maintenance period. However, if the defect referred to in paragraph 2 sub b must be regarded as a serious defect, the legal action shall be inadmissible if it is instituted after the expiry of ten years after the expiry of the maintenance period. A defect shall only be regarded as a serious defect if the work has collapsed in whole or in part or is in danger of collapsing, or has become or is in danger of becoming unsuitable for the purpose for which it is intended according to the agreement and this can only be remedied or prevented by taking very expensive measures.

15.4 Other provisions

1. In the cases provided for in Articles 15.1 to 15.3, the client is obliged to provide the contractor with to report the defect within a reasonable period after discovery and, unless compliance is permanently impossible, to give the contractor the opportunity to repair/remove within a reasonable period at his expense any shortcomings and/or defects for which the contractor is liable.
2. If the costs of repairing a defect or of remedying a shortcoming for which the contractor is liable are not in reasonable proportion to the client's interest in repair, the contractor may, instead of repairing, suffice by paying reasonable compensation to the client.
3. The contractor's liability under Article 15.1 is limited to the amount agreed for carrying out the design work.

If no amount has been agreed, the contractor's liability is limited to 10% of the contract sum.
4. The contractor's liability under Articles 15.2 and 15.3 in the event of attributable indirect damage is limited to an amount equal to 10% of the contract sum. If a damage caused by the contractor is closed business liability insurance provides coverage for a higher amount, this is

liability capped at the amount to be paid. Indirect damage includes: business damage, loss of production, loss of turnover and/or profit, depreciation of products and costs that would have been involved in the execution of the work if the work had been carried out properly from the start.

5. The provisions of Articles 15.1 to 15.4
Any resulting limitations of liability shall not apply if the damage is the result of intent or gross negligence on the part of the contractor.

Article 16: Disputes and applicable law 1. All disputes, whatever – including those that are considered as such by only one of the parties – that may arise between the client and the contractor as a result of this construction contract or of agreements that may result from it, shall be settled by means of arbitration by the Council of Arbitration in Construction Disputes in accordance with the rules described in the arbitration regulations of the Council of Arbitration in Construction Disputes, as amended three months before the conclusion of the agreement, except to the extent that a different method of dispute resolution applies on the basis of the following paragraphs.

2. The parties expressly waive their right to seek the intervention of the ordinary courts.
3. By way of exception to the first and second paragraphs, the contractor may also choose to submit a dispute that falls within the jurisdiction of the subdistrict court to the competent subdistrict court.
4. Dutch law applies to the work contract or to the agreement between the client and the contractor that results from it.