



Product terms and
conditions for purchase and
non-recurring work
2024
Kenter B.V.

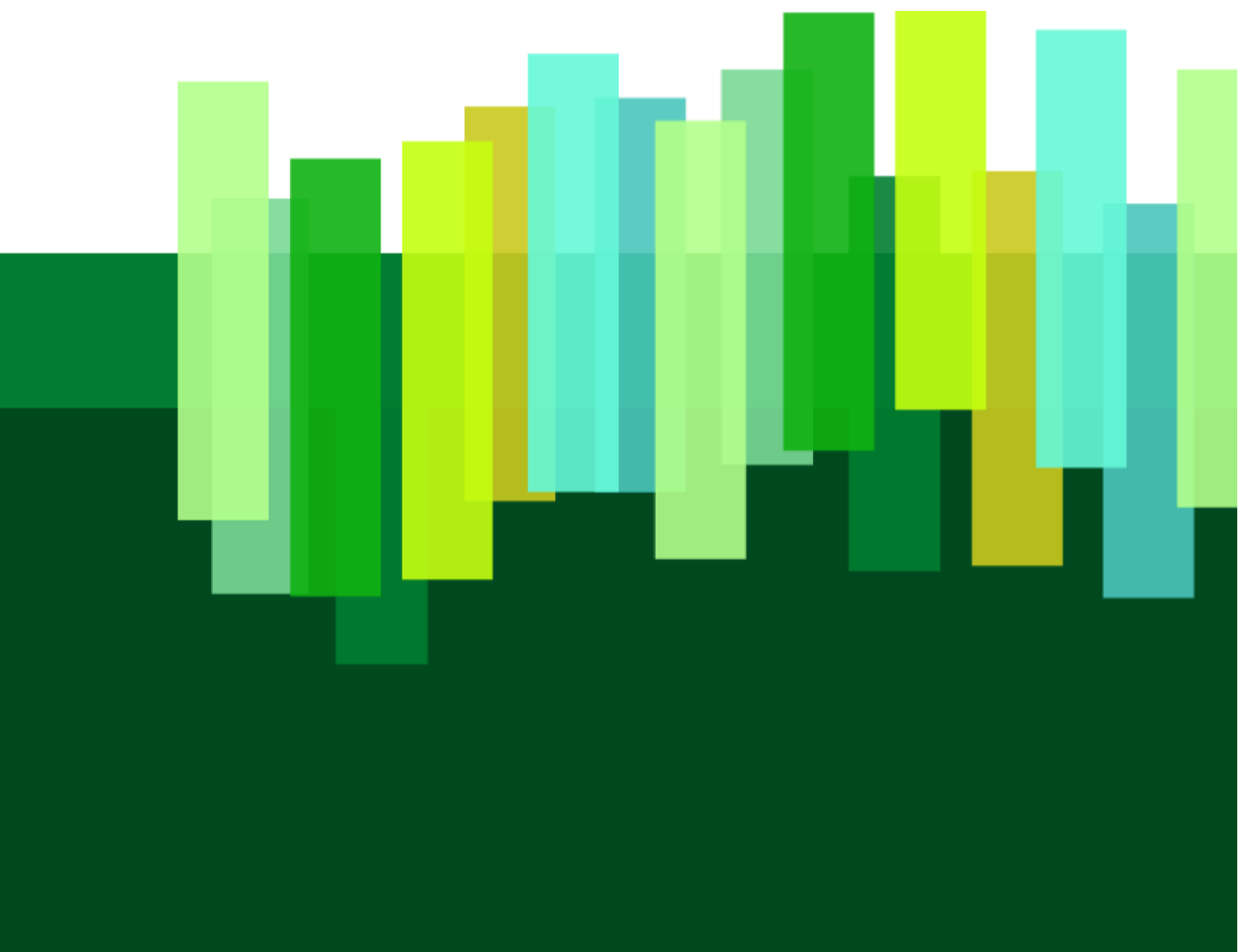


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1. Definitions

The capitalised definitions in these Product Terms and Conditions have the following meaning, insofar as they are not described in the General Terms and Conditions of Kenter B.V.:

General Terms and Conditions

The General Terms and Conditions of Kenter B.V., as amended from time to time.

CC

the Belgian Civil Code.

Product Terms and Conditions

WORK

KENTER B.V.

Purchase

An agreement on the basis of which Kenter undertakes to deliver an item to the Client at a price to be paid by the Client.

2. Applicability

These Product Terms and Conditions, in addition to the General Terms and Conditions, apply to and form an integrated part of all Offers and Agreements, including amendments and additions thereto, with regard to the Purchase and the performance by Kenter of non-recurring Work, including work in the context of projects, including the delivery of Products in implementation of the obligations in the Agreement.

3. Agreement and termination

3.1.

Work performed in the context of a Purchase is incidental to the Purchase and therefore falls under the same legal regime.

3.2.

The Agreement for non-recurring Work is concluded in accordance with Article 4.1 of the General Terms and Conditions.

3.3.

If the Client wishes to terminate the Agreement, he will notify Kenter of this In Writing. In the event of a termination prior to, or during the performance of the Work, Kenter is entitled to the total price stated in the Offer, plus the costs it must incur as a result of the non-completion and less the costs saved as a result of the termination. Kenter will send the Client a specified final settlement of what the Client owes in connection with the termination.

4. Work

4.1. Commencement and performance

4.1.1.

In the context of the Work to be performed by Kenter, necessary preparatory and/or related activities including excavation, foundation, demolition, cutting, masonry, plastering, concrete, carpentry, painting and plumbing work, soil remediation, asbestos removal, removal of contaminated soil and street work are not part of the Work. The Client guarantees that this Work will be carried out correctly and in a timely manner by it or third parties at its expense and risk, and that Kenter will not experience any disruption whatsoever in the performance of the Work.

4.1.2.

The Client bears the risk for damage to and loss of materials, parts, goods or tools that Kenter has delivered to the location for the Work.

4.1.3.

Unless agreed otherwise, the Client is responsible for the energy supply for the Work at its expense, including the timely request for the correct connection to the public network of the relevant network operator or to a closed distribution system. Both the costs of the energy consumed for the Work and the connection costs are borne by the Client. The same applies to other utilities necessary for the Work.

4.1.4.

If, after completion of the non-recurring Work, Kenter also provides periodic services regarding the Infrastructure, Kenter will not commence commissioning until after the Agreement(s) for periodic services have been concluded in accordance with the manner prescribed in Article 4.1 of the General Terms and Conditions.

4.2. Location

4.2.1.

The Client is responsible for the condition of the site and the buildings and works on it where the Work is being performed. The Client is responsible for removing and remedying all circumstances and situations that (may) hinder the performance of the Work at the location. The Client is obliged to notify Kenter of these types of circumstances and situations as soon as possible and to warn Kenter in a timely manner of (potential) danger.

4.2.2.

The Client is responsible for the condition of the site and the buildings and works on it where the Work is being performed. All costs associated with the design

and adjustment of this location, as well as the installation and construction of the Work at the location, will be borne by the Client.

4.2.3.

The Client ensures that the location is easily accessible in Kenter's opinion. If requested, the Client will at its own expense cooperate in removing obstacles and obstructions identified by Kenter.

4.3. Contract variations and unforeseen circumstances

4.3.1.

Kenter has the right to increase the agreed fee for the Work in the event of additional work, if the Client has approved this additional work. In the event that contract reductions are established, the extent thereof will be determined in mutual consultation between the parties. The Client is the only one responsible for any extension of the delivery times stated in the Agreement.

4.3.2.

If during the performance of the Work it appears that (the technical realisation of) the Product must be changed as a result of unforeseen circumstances, Kenter has the right to charge the Client for the associated costs. In the event of extensive changes and significant additional costs, Kenter will notify the Client prior to the performance. In that case, the Client has the right to reject the proposed change. In that case, the parties will make every effort to reach an agreement on how the unforeseen circumstances that require changes to the Product will be dealt with.

4.4. All Construction Site Risks insurance

The Client is obliged to take out and maintain All Construction Site Risks insurance for the benefit of Kenter's Work, in which Kenter and the auxiliary persons engaged by Kenter are included as co-insured. The Client will send Kenter written proof of the insurance taken out. If both Kenter's insurance and the Client's insurance provide cover in the event of damage, the Client is obliged to first claim this damage under its own insurance.

4.5. Delivery and inspection

4.5.1.

Upon receipt, the Product must be immediately subjected to an inspection by the Client or his representative in order to determine any damage or defects. Upon receipt, the Client must report any visible damage or defects to Kenter by registered letter. The Client can only invoke the warranty regarding damage if it has complied with this inspection and reporting obligation.

4.5.2.

The Client confirms that both the Client and its representative have sufficient knowledge and skills to thoroughly inspect the Product.

4.5.3.

The Product is considered delivered if one of the following circumstances occurs:

- a. The Client has approved the Product in whole or in part;
- b. The Client has taken the Product into use in whole or in part; and/or
- c. Kenter has notified the Client in writing that the Product has been completed and the Client does not indicate within twenty-one (21) days that the Product has not been approved.

4.5.4.

The Client will not withhold approval of the Product on the basis of minor defects, i.e., defects that can be repaired by Kenter within one month and/or that do not prevent the Client from using the Product.

4.5.5.

The Client is authorised to carry out checks to determine whether the Work and/or the Product meet the requirements set out in the Agreement. The costs of such a check are payable by the Client.

4.5.6.

If the Client does not approve the Product, the Client will give Kenter the opportunity to redeliver the rejected parts of the Product.

5. Purchase and delivery

5.1.

The place of delivery is the address specified by the Client. If no address is specified, the goods will be delivered to the business address of the Client(s).

5.2.

The risk of loss, damage or depreciation during delivery is systematically at the risk of the Client.

6. Renunciation of the right of accession

In all cases where the Product sold by KENTER is a good within the meaning of Article 553 of the Belgian Civil Code, the Client will take all measures and perform all necessary actions and comply with all required formalities, including appearance before a civil-law notary, and to do so before the Product is delivered, so the Client or any other person who owns the land on which the Product will be installed duly waives the right of accession, with all costs being borne by the Client.

7. Retention of title

7.1.

Without prejudice to the provisions of Article 0, all goods delivered by Kenter to the Client remain the property of Kenter until the Client has fulfilled all obligations under the Agreement. Failing this, Kenter reserves the right to cancel the purchase and take back the goods, subject to all other rights. In that case, all costs associated with the return of the goods by Kenter, including in particular the transport costs, will be borne by the Client.

7.2.

The Client will, both on its own initiative and if Kenter so demands, carry out all material and/or legal actions necessary to retain the effectiveness of Article 6, including but not limited to an entry in the pledge register, in accordance with Article 71 of the Civil Code, Book III, Title XVII.

7.3.

As long as the retention of title within the meaning of Article 0 applies, the Client cannot transfer ownership of Kenter's goods to third parties, nor pledge these goods, nor take any other measure that could endanger Kenter's property. If the aforementioned prohibition is not complied with, payment will become immediately due and payable. In the event of resale of the goods, even transformed, belonging to Kenter, the Client will subsequently transfer to it all claims arising from its resale, up to the amount of the unpaid price, in principal amount, interest and appurtenances.

7.4.

The Client undertakes to insure the goods delivered under retention of title and to keep them insured against damage (as a result of, among other things, fire, explosion and water) and theft. As long as the retention of title applies, Kenter is entitled to the compensation paid by the insurer.

7.5.

If Kenter wishes to exercise its right of ownership, the Client will grant Kenter access to its premises and the goods, and the Client will grant Kenter all necessary cooperation in that regard.

8. Rates, fees and payment

Unless otherwise stated in the Agreement, payment of the agreed total sum for the Product will be made as follows:

- a. 20% of the total sum must be paid immediately after the Agreement has been concluded;
- b. 70% of the total amount must be paid at the start of the Product; and

- c. the remaining 10% of the total sum must be paid immediately after delivery.

9. Warranty

9.1.

In the case of a Purchase, the manufacturer's warranty applies. In the case of a Purchase of a Product that consists of parts from different manufacturers and which were formed together into a Product by Kenter, a warranty period of twelve (12) months applies. Work is not guaranteed.

9.2.

Complaints regarding observable defects in the Product involved in the Purchase must be made as soon as possible, but no later than fourteen (14) days after delivery, by registered letter and stating the reasons.

9.3.

The Client is not entitled to invoke the warranty referred to in this article if a defect in a Product involved in the Purchase has arisen as a result of incorrect use of the Product or due to actions, including in any case adjustments, modifications, assembly, repairs, transport, storage and maintenance work on the Product that has not been performed by Kenter. Neither can Kenter be held liable for defects that directly or indirectly result from accidents that cannot be attributed to Kenter.

9.4.

Provided that the Client has validly invoked the warranty in accordance with the provisions of this article and on justified grounds, Kenter is free:

- to repair the defect in the item involved in the Purchase; or
- to replace the item involved in the Purchase free of charge with an equivalent product; or
- To compensate the Client for the defect by means of an amount of money to be paid.

9.5.

If Kenter carries out repairs or replacement work at the request of the Client after the warranty period has expired, the costs thereof (including labour costs, administration, shipping and call-out costs) will be borne by the Client.

9.6.

Parts replaced by Kenter under the warranty become the property of Kenter.

9.7.

In the event of an unjustified claim on the warranty, the associated costs will be borne by the Client.

9.8.

In the event of an unjustified claim on the warranty, the associated costs will be borne by the Client.

9.9.

In any case, the Client is deemed to have waived the claim if he does not take all necessary measures to submit the dispute to the competent court within twenty-four (24) months of the timely invocation of the warranty in accordance with Article 11.1 of the General Conditions and Article 0 of these Product Terms and Conditions.

10. Liability and damage

10.1.

Except in the case of intent or wilful recklessness on the part of Kenter, Kenter is at all times exclusively liable for direct, material damage, which is understood to mean property damage that arises immediately and directly, including the costs of repairing the defect, due to an attributable shortcoming of Kenter in the fulfilment of its obligations under the Agreement. Kenter is therefore under no circumstances obliged to compensate indirect damage (such as consequential damage or trading loss, loss of production, loss of turnover or profit and missed savings).

10.2.

Without prejudice to the provisions of Article 0, Kenter's liability towards the Client is limited in all cases to the amount that is paid out pursuant to Kenter's liability insurance policies. To the extent that Kenter's insurer does not pay out for whatever reason, Kenter's liability is limited to the price for the Work or Products set out in the Agreement.

10.3.

During the performance of Work and the delivery of Products, there may be interruptions in the energy supply. The Client will be informed as much in advance as possible about such interruptions and accepts that any liability on the part of Kenter for damage resulting from such interruptions is excluded.

10.4.

If the progress of Work and/or the delivery of Products is hindered or delayed by circumstances for which the Client is responsible, the Client must

compensate Kenter for any damage suffered as a result.

10.5.

If the Work has to be stopped due to unforeseen circumstances - including (but not limited to) soil contamination, circumstances within the meaning of the Flora and Fauna Act or other laws and regulations, and failure to obtain a permit (in a timely manner) - the consequences will be at the expense and risk of the Client.

10.6.

The limitations and exclusions of Kenter's liability included in this article also apply to third parties whom Kenter uses in the performance of the Agreement.

10.7.

The limitations and exclusions of Kenter's liability included in this article also apply to third parties whom Kenter uses in the performance of the Agreement. The Client will also compensate Kenter for all damage suffered by Kenter as a result of such claims.

11. Final provisions

11.1.

The applicability of the Vienna Sales Convention is excluded.

11.2.

These Product Terms and Conditions come into effect on 1 November 2020 and can be referred to as "Product Terms and Conditions for purchase and non-recurring (project) work of Kenter B.V. 2020".

11.3.

These Product Terms and Conditions are exclusively subject to Belgian law. All disputes relating to these Product Terms and Conditions will be submitted exclusively to the courts of Antwerp.

11.4.

These Product Terms and Conditions have been published at <https://www.kenter.be/algemene-voorwaarden/>



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