



GENERAL TERMS AND CONDITIONS

THEO POWW GROUP: GENERAL TERMS AND CONDITIONS
as of 21 September 2007

These general terms and conditions have been filed with the Utrecht Chamber of Commerce under no. 30065246.

GENERAL PROVISIONS

1. General.

These general terms and conditions apply to all offers made and agreements entered into by the limited liability companies Theo Pouw Holding, Theo Pouw Beheer B.V., M&A Pouw Holding B.V., Theo Pouw B.V., Theo Pouw Recycling B.V., Theo Pouw Materieel B.V, Theo Pouw Secundaire Bouwstoffen B.V., Theo Pouw Exploitatie B.V. and/or one or more of these companies' subsidiary operating companies, hereinafter jointly and individually referred to as 'Pouw'. Exceptions to the companies defined and referred to above are Terminal Utrecht B.V. and BSN Bodemsanering Nederland B.V.. These companies apply their own general terms and conditions. The party with which Pouw has entered into agreements or is negotiating agreements is hereinafter referred to as 'the other party'.

2. Offers and agreements.

All offers submitted by Pouw are without obligation, unless otherwise stated in the offer. If an offer submitted by Pouw is without obligation and this offer is accepted by the other party, Pouw will have the right to revoke this offer within two working days of receiving notice of the other party's acceptance of the offer.

3. Changes and extra work.

If Pouw consents to changes in an existing agreement, the other party will be obliged to pay any resulting costs incurred by Pouw as compensation for extra work. If changes (or extra work) lead to delay in the execution of the agreement, the time limits given by Pouw will be extended by the period of this delay, subject to the provisions regarding force majeure included in these general terms and conditions.

4. Times.

The dates quoted by Pouw to the other party with regard to the execution of the agreement are never strict deadlines, even if they are ultimate dates. If a date quoted by Pouw is exceeded, Pouw will not be in default in this matter until the other party has given Pouw written notice of default and has allowed Pouw a reasonable period in which to fulfil its obligations to the other party. This period will be at least half as long as the period originally agreed for execution of the agreement in question.

5. Complaints

The other party must submit written confirmation of any complaints there may be with regard to Pouw's execution of the agreement within 2 days of receiving the goods. If this time limit is exceeded, any claim against Pouw in connection with the complaints in question will be null and void. Complaints about Pouw's execution of the agreement never entitle the other party to suspend its payment obligations to Pouw.

6. Force majeure.

Force majeure affecting Pouw includes but is not limited to the following circumstances: operational failures; strikes; sickness absence of staff; breakdown in the supply of energy or materials; transport difficulties; fire, explosions, wilful damage, wars or any other external contingencies; frost, gale or unworkable weather conditions; government measures which influence the execution of the agreement; and any failure on the part of third parties involved in the execution of the agreement, whether or not at the request of Pouw. In the event of force majeure, Pouw is entitled to charge for the part of the agreement which has already been executed. In the event of temporary force majeure affecting Pouw, Pouw is entitled to extend the period during which the agreement must be executed by the duration of the temporary impediment.

7. Prices, rates and invoicing.

Unless otherwise specified, the prices and rates quoted by Pouw do not include BTW (Dutch VAT) or any other levies imposed by the government. Unless otherwise agreed in writing and insofar as any third parties engaged do not invoice the other party directly, the costs of third parties engaged by Pouw will also be paid by the other party. Pouw is entitled at all times to charge the other party for any price-raising factors which arise after the offer has been made or the agreement has been entered into. If the agreement includes partial deliveries by Pouw to the other party, Pouw will be entitled to submit a separate invoice for each partial delivery. If the other party wants delivery prior to 7 a.m. or after 5 p.m. or on a Saturday, Sunday or public holiday, Pouw will be entitled to charge extra for this service.

8. Intellectual property rights.

Unless otherwise agreed with the other party, Pouw reserves all copyrights and other intellectual or industrial property rights or similar rights regarding all data, drawings, calculations, models and any other documentation supplied to the other party. The other party is not permitted to alienate, encumber, copy, reproduce, publish, or use or exploit the rights and goods referred to in the previous sentence in any other way or to make them available in any way to third parties without prior written permission from Pouw, whether any compensation is paid or not.

9. Payment/setoff/security.

The other party must pay within 30 days of the invoice date, unless other time limits are stated on the invoice. Any right of setoff on the part of the other party, on whatever grounds and for whatever reason, is excluded, unless Pouw has given written permission for setoff. Payments made by the other party will in the first instance serve to cover any interest and costs owed and then the oldest unpaid invoices, even if the other party has stated that the payment regards a later invoice. The other party undertakes to furnish Pouw with security on demand or to supplement existing security for compliance with the other party's payment obligations pursuant to agreements entered into with Pouw. If the other party fails to pay, to pay on time or to pay completely, then without prior notice of default it will owe interest of 1% per month on the amount of the outstanding invoice,

whereby part of a month will be regarded as a whole month. Moreover, any judicial or extra-judicial costs incurred by Pouw in connection with collecting debts from the other party, without prejudice to the other rights to which Pouw is entitled, such as rights to compensation and compliance, will be charged to the other party. These costs will amount to at least 15% of the sum to be collected, with a minimum of EUR 1000. If the other party has fulfilled its obligations arising from an agreement with Pouw in which Pouw is the commissioning party, the other party will invoice Pouw for the agreed amount, after which Pouw will pay within 60 days of receiving the invoice in question or within some other period which has been agreed in writing, subject to Pouw's right to offset claims.

10. Liability, prescription and indemnification.

Pouw will not be liable for any losses suffered by or to be suffered by the other party or by third parties which are related to or have resulted from compliance with the agreement, with the exception of wilful misconduct or gross negligence on Pouw's part. Pouw will never be liable for losses and/or costs which are connected in any way with or arise from actions, omissions, errors and/or the quality of work provided by third parties engaged by Pouw in connection with the execution of the agreement. If and insofar as it should turn out that, in spite of the provisions of this article, Pouw has some liability towards the other party, then this liability will be limited per incident/occurrence to an amount equivalent to the amount of the agreed performance determined by the invoice (excluding BTW) relating to the agreement on which the liability is based, with the proviso that Pouw's liability will at any rate be limited to the amount which will be paid by Pouw's insurance company with respect to this liability on the basis of the policy conditions. Any legal claim the other party may have on Pouw will lapse one year at the most after the termination and/or completion of the execution of that part of the agreement to which the claim relates. The other party indemnifies Pouw against all claims of third parties relating to agreements executed by Pouw, unless it has been established by law that these claims result from wilful misconduct or gross negligence on the part of Pouw and the other party can also demonstrate that it is in no way to blame for the matter concerned. The other party is liable to Pouw for any losses suffered by Pouw or its employees as a result of goods made available to Pouw by the other party for the purpose of executing the agreement.

11. Suspension, termination and retention.

In addition to all its other rights, Pouw has the right to terminate or partially terminate the agreement entered into with the other party, without prior notice of default or judicial intervention, by means of a written declaration if: a) there is a situation of force majeure; b) the other party is granted a provisional or definite moratorium, a petition for liquidation of the other party is filed or the other party itself files a petition for liquidation, the other party is granted a debt-rescheduling arrangement, the other party offers its creditors a private settlement or convenes a meeting of creditors for this purpose; c) the other party's company is wound up and/or the other party's business operations are actually discontinued or are relocated to some place outside the Netherlands; d) the other party's assets are placed under administration, some of the other party's assets are attached and this attachment is maintained for at least one month, or recourse is sought in some other way in respect of the other party's assets; e) the control structure within the other party changes in such a way that as a result proper performance of the other party's obligations can no longer be guaranteed or is endangered. Should anyone desire the surrender of goods which Pouw has in its possession by virtue of an existing legal relationship with the other party, Pouw is entitled to exercise a right of retention with regard to such goods as security for the payment of all claims Pouw has against the other party.

12. Duty of confidentiality.

The other party undertakes a duty of confidentiality towards third parties with respect to any company information and knowledge stemming from Pouw which has been communicated to it before, during and after a legal relationship.

13. Applicable law.

The relationships between Pouw and the other party are governed exclusively by Dutch law.

14. Dispute settlement regulation.

Any disputes resulting from or connected with agreements between Pouw and the other party, including those disputes which are regarded as such by only one of the parties, and any agreements resulting from or relating to such disputes, will – in the first instance – be resolved by the District Court of Utrecht.

SPECIAL PROVISIONS FOR THE PURCHASE AND SALE OF GOODS

15. General.

In these special provisions the terms below are defined as follows:

- purchaser: the party to whom Pouw has sold and delivered or will deliver goods pursuant to an agreement
- vendor: the party who has sold and delivered or will deliver goods to Pouw pursuant to an agreement
- for the definition of the terms used in these provisions with respect to building and demolition rubble and mineral waste, reference is made to the Environmental Management Act, and for primary and secondary building materials reference is made to the definitions in the Dutch Building Materials (Soil and Surface Waters Protection) Decree (Bouwstoffenbesluit bodem- en oppervlaktewaterenbescherming) or the Soil Quality Decree (Besluit bodemkwaliteit), hereinafter referred to as the Building Materials Decree (Bouwstoffenbesluit).

16. Delivery by Pouw.

This article provides for the sale of goods by Pouw to the purchaser. Secondary building materials are inspected in accordance with the recognized national assessment guidelines in the Building Materials Decree. On the basis of these guidelines specific components are analysed by Pouw. The risk of parameters which are not examined being exceeded will be borne by the purchaser. Delivery is held to have taken place as soon as the item sold has left one of Pouw's business sites, unless transport has been arranged by Pouw, in which case ownership is transferred when the item is unloaded at a location designated by the other party.

The purchaser must check the goods immediately upon delivery. If the goods do not comply with the agreement, the purchaser should report this immediately, but at any rate in writing within two working days at the latest. Pouw will not be liable for defects reported later.

Offers made by Pouw are at a fixed transfer price per weighed tonne. Unless there is a prior written agreement, any discrepancy in the amount actually delivered will not result in any change to this fixed transfer price.

17. Return shipments.

Any shipments the purchaser has ordered but then failed to take delivery

of or has returned will be charged to the purchaser. Any losses incurred by Pouw as a result of failure to take delivery of shipments or of their return must be reimbursed by the purchaser unless the purchaser can prove that the goods delivered do not comply with the agreement.

18. Liability.

The risk of loss of and/or damage to goods bought by Pouw will be transferred to Pouw only after the vendor has delivered the goods to Pouw and Pouw has accepted the goods. The risk of loss of and/or damage to goods delivered by Pouw will be transferred to the purchaser as soon as Pouw delivers the goods.

19. Formation of the agreement.

The other party undertakes to use the primary and secondary building materials as prescribed in the Building Materials Decree. This includes – but is not limited to – notifying the competent authority of this use by means of the Building Materials Notice Form (Meldingsformulier bouwstoffen).

At all times Pouw will supply primary and secondary building materials from the stocks present at Pouw, which have been approved as described in Article 16. Pouw can never be obliged to provide substitute supplies from some other stock than its own.

20. Ownership of the primary and secondary building materials.

Unless otherwise agreed in writing, ownership of the primary and secondary building materials is transferred to the other party as soon as the materials leave Pouw's site, so that the other party is then responsible for dealing with the primary and secondary building materials which have been supplied. Ownership of the primary and secondary building materials is transferred to the other party only if the transport has been arranged by Pouw when the materials are unloaded at the location designated by the other party. In taking possession of the primary and secondary building materials, the other party also assumes the risk associated with unexamined parameters.

SPECIAL PROVISIONS FOR THE RENTAL OF GOODS

21. General.

In these special provisions the terms below are defined as follows:

- rental: renting out by Pouw of movable goods to the borrower;
- borrower: the party with whom Pouw has entered into a rental agreement.

22. Duration of the agreement.

The duration of the rental will be for the period stated in the rental agreement. After this period has expired, the rental agreement will be terminated by law without notification or any other termination formalities.

23. Availability and use of goods.

The goods to be rented out are delivered to the designated handover location. All transport and installation costs are payable by the borrower and must be paid to Pouw at the same time as the rent owed for the first rental period. The borrower declares that it is familiar with the operation of the goods and undertakes to give users appropriate instructions about it. The borrower is obliged to keep the rented property in good repair and to check oil levels, cooling water, batteries and comparable points according to the maintenance schedule. The costs of any damage to the rented property which is due to normal wear and tear are payable by Pouw, with the proviso that the costs remain limited to the part requiring replacement, including labour costs. If the repair takes longer than one day, rental will be terminated until the repair has been completed. Pouw must be notified at once of any defects. The borrower may only have

repairs carried out after receiving written permission from Pouw. Repairs must be carried out by expert and qualified staff, and only original parts may be used. Without prior written permission from Pouw the borrower is not permitted: a) to use the goods for any other purposes than those agreed; b) to make any changes, of whatever nature, to the goods, or to attach the goods permanently to any other items; c) to rent out the goods or parts of them to third parties and/or to make them wholly or partially available to third parties or to allow third parties to use them. Pouw is entitled to terminate the rental agreement with immediate effect if – in Pouw's opinion – the rented property is being neglected or inexpertly used or if, in spite of written notice from Pouw demanding compliance, the borrower fails to comply with one or more of the obligations arising from the rental agreement/rental conditions.

24. Duty of disclosure.

During business hours the borrower will at all times grant Pouw or a third party designated by Pouw access to the site or sites where the rented goods are located, to enable Pouw or the third party referred to to inspect these goods. In the event of damage to the rented goods, the borrower is obliged to notify Pouw of the damage without delay and to follow any instructions given by Pouw relating to the matter.

25. Liability.

The borrower is liable to Pouw for any losses resulting from the loss of or damage to the rented goods.

SPECIAL PROVISIONS FOR THE SALE, DELIVERY AND PAYMENT OF CONCRETE MORTAR

26. General.

In these special provisions the term concrete mortar is taken to mean factory-made ready-mixed concrete, which is a homogenous mixture consisting of the binding agent cement, aggregates, water and possibly admixtures or fillers to influence certain properties in order to attain the required quality.

27. Delivery.

If there is a difference of 3% or less between the amount of concrete mortar agreed and that delivered, Pouw will be deemed to have completely fulfilled its delivery obligation.

28. Small load.

For loads smaller than 7 m³ delivered on demand, for each ¼ m³ less than 7 m³ an additional small-load charge will be added. This additional charge will not apply to a final delivery on demand or per placement. Purchase of an amount above 7 m³ entitles the purchaser to a final delivery.

29. Prices.

Prices are based on ex works deliveries to appropriate silos, concrete pumps, conveyer belts (in single unloading manoeuvres), or directly to the work site.

30. Different compositions.

If different concrete composition and/or qualities are required than those described in Article 26, additional costs, to be determined by Pouw, will be charged. For concrete mortar with more or less cement per m³ the price will be raised or lowered respectively by an amount to be determined, upon request, by Pouw. If 4-16 mm gravel is to be used, the price will be raised by an amount to be determined, upon request, by Pouw. Use of different aggregates will lead to higher prices. If the purchaser adds admixtures at the construction site, any guarantee provided by Pouw with regard to the quality of the concrete mortar will become null and void.

31. Unloading times.

Arrival, unloading and departure must take place within a period of 6 minutes per m³. If this period is exceeded due to actions of the purchaser, an extra rate per truck per minute will be charged.

32. Returned loads.

For returned loads, in addition to the agreed price per m³ of concrete mortar, an additional sum, to be determined by Pouw, will be charged for each m³.

33. Delivery times.

The concrete mortar is delivered during normal factory hours from Monday to Friday from 7 a.m. to 5 p.m. For deliveries outside these times Pouw will charge overtime rates in consultation with the purchaser. With regard to these overtime rates the following distinction is important:

- a. for deliveries after 5 p.m. from Monday to Friday a basic overtime rate per hour, to be determined by Pouw, will be charged for the concrete batching plant, plus a rate per hour, to be agreed, for the number of mixers. These rates will be included in Pouw's offer.
- b. the rates for deliveries on Saturdays, Sundays and public holidays and for continuous pouring will be determined in consultation with the purchaser.

34. Quality.

If the purchaser, with due observance of the provisions of these general terms and conditions, finds that the quality or the properties of the concrete mortar delivered by Pouw are defective, an expert report will be drawn up by an expert agency designated in consultation with Pouw. If it turns out that the concrete mortar is defective, Pouw will pay the costs of consulting the experts, and if the concrete mortar is not defective these costs will be paid by the purchaser.

SPECIAL PROVISIONS FOR BUILDING AND DEMOLITION RUBBLE AND MINERAL WASTE OFFERED TO POWW FOR PROCESSING

35. General.

In these special provisions the terms below are defined as follows:

- the discarder: the party by whom or on whose behalf building and demolition rubble or mineral waste is offered for processing;
- the carrier: the party who actually transports the building and demolition rubble or mineral waste, or that party's representative;
- the manager: Pouw or a representative designated by Pouw;
- for the definition of terms used in these provisions relating to building and demolition rubble or mineral waste, reference is made to the current legislation;
- acceptance regulations: the acceptance regulations currently in force at the Pouw unit where the discarder offers the waste materials for processing.

36. Offers.

The point of departure for all offers is that the building and demolition rubble or mineral waste delivered by the other party matches the specifications supplied by the other party or established in some other way by or at the request of the other party, on which specifications Pouw's offer is based. Pouw is not obliged to conduct any investigation into the correctness of these specifications. Offers made by Pouw are thus valid only if the composition of the building and demolition rubble or mineral waste actually delivered does not deviate from these specifications, at least if this deviation does not result in higher costs being incurred in processing the materials. Establishment of any deviation will take place in accordance with the system set out in Article 37. The acceptance regulations currently in force at the Pouw unit where the waste is offered for processing applies to the delivery of the waste and the method of delivery used by the discarder. The acceptance regulations will be made available to the discarder on request.

37. Consequences of a deviation from specifications.

1. In the event that the criteria referred to in Article 36 are not met, Pouw will notify the other party of this fact within 10 working days after Pouw has reached this conclusion. In addition, if the deviation from the specification is such that Pouw would be acting in contravention of its acceptance conditions or with environmental legislation by accepting the waste, the waste will not be accepted.
2. During 10 working days the other party may have a counter appraisal carried out of the waste in which the deviation has been found, in accordance with a recognized protocol. Pouw must be notified of the findings of the counter appraisal within 5 working days at the latest after it is conducted. If the other party fails to have a counter appraisal carried out or fails to do so in time, or fails to notify Pouw of the findings in time, the deviation found by Pouw will be regarded as correct. If it turns out that there is a difference between Pouw's assessment and the findings of the counter appraisal, a third party, designated by both parties, will make a binding assessment of the composition of the material in question.
3. In the event that a deviation with respect to the specifications as

indicated in Article 36 is found, then:

- a. On the basis of the composition ascertained upon delivery, Pouw will make a new offer with adjusted costs for processing by Pouw or processing elsewhere.
 - b. The other party is obliged to notify Pouw of its decision within a reasonable period, which may however never be longer than the total period referred to in paragraph 2 of Article 37. If the other party fails to respond within this period, Pouw will be entitled to charge storage costs until the other party takes up the offer referred to in Article 37 paragraph 3 under a. or arranges for removal of the building and demolition rubble or mineral waste in question from Pouw's site.
 - c. If the other party does not take up the new offer, it will be obliged to arrange for removal of the building and demolition rubble or mineral waste in question from Pouw's site with 5 working days at the most.
 - d. If the other party takes back the waste, it will be obliged to reimburse the costs incurred by Pouw, including but not limited to the costs of soil transport, storage, inspection, loading, removal and any other costs of any kind incurred by Pouw.
 - e. Notwithstanding the provisions of this article, Pouw is not obliged to notify the other party that the material supplied is of a different quality if it turns out the quality of the material is not poorer than the other party has indicated. In this case Pouw has no obligation to reimburse the other party.
 - f. If the other party does not remove or take back the waste as outlined in this Article, Pouw will be entitled to arrange for removal itself and to charge the other party for any costs whatsoever associated with this removal. This also includes the costs referred to in this article under d.
4. The conditions regarding ownership of the mineral waste are regulated in Article 38.

38. Ownership of building and demolition rubble or mineral waste.

1. Unless expressly agreed otherwise in writing, the ownership of the building and demolition rubble or mineral waste is transferred to Pouw upon its arrival, so that Pouw is then responsible for processing the building and demolition rubble or mineral waste supplied and also for any further arrangements and the ultimate destination of any products released during processing.
2. The other party is not notified of the transfer of ownership. If no written notification is received within 10 working days of the reception of the last load which falls under the agreement, this may be regarded as confirmation of the transfer of ownership.
3. Only if Pouw finds a deviation in the material upon its arrival and notifies the other party of this finding in writing as referred to in Article 37 paragraph 1, the ownership of the building and demolition rubble or mineral waste will remain with the other party, until the other party makes use of the options referred to in Article 37 paragraph 3.

39. Acceptance rates.

Acceptance rates for building and demolition rubble or mineral waste are



per tonne, exclude BTW, and are determined by the manager at certain points. The acceptance rates are calculated on the basis of the weighed amount or the draught survey report and according to the category in which the manager classifies the waste.

SPECIAL PROVISIONS FOR AGREEMENTS TO WHICH THE WAGES AND SALARIES TAX AND NATIONAL INSURANCE CONTRIBUTIONS (LIABILITY OF SUBCONTRACTORS) ACT (WET KETENAANSPRAKELIJKHEID) APPLIES

40. General.

These general provisions apply to all agreements in which Pouw is the contracting party and the other party functions as a subcontractor or supplier and to which the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act also applies.

41. Obligations of the other party.

The other party must have at its disposal and must show Pouw upon request:

- a) a valid certificate of registration with an industrial insurance board, insofar as the relevant industrial insurance board issues such certificates;
- b) a licence to establish a business if such a licence is required;
- c) a statement containing the names of all employees, with their tax and social insurance numbers, employed by the other party from week to week. The other party's employees must also be able to produce proof of identity at any time;
- d) the employees' pay slips;
- e) a recent statement concerning its payment history at the industrial insurance board and concerning the payment of wage tax and national insurance contributions as referred to in the guidelines laid down in the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act. The other party will comply strictly with its obligations to its employees. Whenever the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act applies, the other party must comply with its agreements with Pouw completely in accordance with this Act. The other party will indemnify Pouw against any liability towards the client and/or third parties resulting from failure on the part of the other party to comply with obligations arising from the agreement or from the law. If the

other party owes national insurance contributions and wage tax in regard to the work concerned, and Pouw is jointly and severally liable for the contributions and tax in question by virtue of the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act, Pouw will be entitled to pay the contributions and tax in question by means of a deposit into the other party's blocked account as defined in the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act. Pouw is entitled to deposit these sums into a guarantee account without written notification. Notwithstanding the above provisions, after Pouw has given the other party notice of default, by registered letter with a period of 10 working days in which the other party can still comply, Pouw is entitled to withhold sums equivalent to the national insurance contribution and wage tax referred to above from the subcontract price and to pay them directly, on the other party's behalf, to the industrial insurance board concerned or the collector of direct taxes. In cases such as those referred to in the previous three sentences, by paying these sums Pouw will have discharged its debt to the other party as far as these sums are concerned.