

SUPPLEMENTARY CONDITIONS FOR CONTRACTING OF WORK AT LOCATIONS UNDER MANAGEMENT OF THE MINISTRY OF DEFENCE

Laid down by decree of the State Secretary for Defence dated 3 August 1999, no M99004042

SHORT TERM:

AVWD-D 1999

Additional conditions pertaining to the General Conditions for the Performance of Work for the Ministry of Defence (AVWD 1995), applicable in those cases where work is carried out at locations managed by the Ministry of Defence.

Article 1. WORKING CONDITIONS

1.1. The contractor shall ensure that the personnel provided by the contractor are familiar with the principal's regulations in respect of working conditions.

1.2. The contractor is responsible for its personnel observing the current regulations in respect of working conditions.

1.3. The contractor is obliged to inform the principal of any circumstance in violation of the current regulations in respect of working conditions.

1.4. The contractor shall indemnify the principal against any damage resulting from the contractor or its personnel failing to observe the current principal's regulations in respect of working conditions or the failure to report any violations thereof in due time.

Article 2. MATERIALS AND TOOLS/PROVISION OF GOODS BY THE PRINCIPAL

2.1. If clothing, materials or tools are required in connection with the execution of the services, the contractor shall take care of this.

2.2. The principal is authorised to inspect and test the goods referred to in paragraph 1. Such an inspection or test, or their omission, does not affect the responsibility of the contractor pertaining to the performance of the contract or the compliance with statutory provisions.

2.3. If the principal provides the personnel of the contractor with any goods, the contractor undertakes that these goods be used and maintained in accordance with the instructions.

2.4. If any goods as referred to in paragraph 3 upon completion of the services have not immediately been returned, or have been returned with a defect, the principal is entitled to charge the replacement costs or the costs of repair to the contractor. In the implementation of this paragraph, the principal is entitled to set these costs off against payments.

2.5. The contractor is entitled to store its materials and tools on the principal's premises subject to the principal's judgment as to whether this is required. The risk for the goods stored by the contractor on the principal's premises shall remain at the contractor, and he indemnifies the principal against all claims with respect to these goods.

Article 3. ORDER AND SECURITY

3.1. The contract and the performance of the contract come under the General Security Requirements relating to Defence Orders (ABDO).

3.2. The contractor shall ensure that its personnel observe the directives and instructions pertaining to order and security issued by or on behalf of the principal.

3.3. In the framework of the performance of the contract the principal is entitled to deny personnel employed by the contractor access to the principal's premises, if cooperation with an inspection of the nature of the goods they carry with them is being refused. Such a denial of access does not affect contractor's responsibility for the performance of the contract.

3.4. The contractor shall ensure that on each day that services are being executed on the principal's premises its personnel checks in and out with the authorised official.

3.5. The contractor shall ensure that its presence on the principal's premises and that of the personnel employed by him do not interfere with the principal's operational management, unless agreed otherwise.

Article 4. PLANNING OF WORK AND REPORTING

4.1. If the principal so requires, the contractor, before commencing work, shall submit a written planning pertaining to the execution of the services, based on the current working hours of the principal.

4.2. The plan is valid only after it has been approved by or on behalf of the principal. The approval of the plan does not affect the responsibility of the contractor for the performance of the contract.

4.3. The contractor and the principal shall consult with each other on the work progress as often as either party desires. At the request of the principal, the contractor shall provide the principal with a written report on the progress of work.

4.4. The working days and working hours are identical to the working days and working hours which are customary with the principal at the work location in question. If the principal so requires, the personnel of the contractor shall use a time card, badge or another working hours registration system.

4.5. The contractor or his representative shall be in the direct vicinity of the work. Absence shall be arranged in consultation with the authorised official of the principal.

Article 5. EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND PERSONNEL

5.1. The contractor shall ensure that, on first demand by the principal, the personnel involved in the performance of the contract can submit a document signed by the contractor as proof of their being employed by the contractor.

5.2. If the contractor intends to call in personnel not employed by him in the framework of the performance of the contract, he shall inform the principal of this. The principal is entitled to refuse these personnel. If the principal does not raise any objections, the contractor shall ensure that the personnel concerned are in possession of a signed document showing by whom they are employed as such.

Article 6. LICENCES

6.1. If the contractor is under a public-law obligation to be in possession of a licence pertaining to the execution of the services, he is obliged to inform the principal to this effect and to submit a copy of the licence to the principal prior to the execution of the services. The contractor undertakes to do everything that is necessary to ensure that he retains the licence. The contractor is obliged to inform the principal of any changes in connection with this licence. He shall notify the principal of any actions that may result in acting in contravention of the said public-law regulation.

6.2. If the personnel who are employed in the framework of the performance of the contract are under an obligation to be in possession of a licence pursuant to a public-law regulation, the contractor is obliged to inform the principal to this effect and to submit a copy of the licence to the principal prior to the execution of the services. The contractor undertakes that everything is done to ensure that the licence is retained. The contractor shall not bring in personnel who are not (any longer) in possession of a licence. He shall notify the principal of any actions that may result in acting in contravention of the said public-law regulation.

6.3. If the principal, pursuant to a public-law regulation, is regarded as co-employer in connection with the execution of the services, or is assigned a responsibility as principal, this is without prejudice to the obligations of the contractor to observe this regulation. The contractor shall indemnify the principal against any claims in this matter.

Article 7. OBLIGATIONS PURSUANT TO ANTI-MISUSE LEGISLATION

7.1. The principal is authorised to demand statement and inspection of the payment record of the contractor and the third parties engaged by the contractor vis-à-vis the tax authorities and the social security agency ("uitvoeringsinstelling").

7.2. The contractor shall, on first demand, allow full inspection of the accounts which he, under public-law regulation, is obliged to keep in connection with the performance of the contract.

7.3. The contractor indemnifies the principal against claims by the tax authorities or social security agencies that may arise in connection with the performance of the contract.

Article 8. TRANSFER OF VAT

If article 24b of the Value Added Tax Implementation Decree 1968 applies, the contractor shall refrain from charging VAT and state on the invoice that VAT has been transferred ("omzetbelasting verlegd"). In the event of any disputes arising between the principal and the contractor with respect to the application of this regulation, the competent tax inspector in this matter shall be asked for a decision. Pending this decision, matters shall proceed as if the said regulation were to apply. The principal is discharged from paying the said sums insofar as these sums are concerned.

Article 9. DOCUMENTS TO ACCOMPANY INVOICES

The invoices shall be dated and numbered and shall contain at least the following information:

- a. name and address of the contractor;
- b. registration number in the trade register;
- c. date and number of the order;
- d. the performance statement;
- e. the price to be paid;
- f. the amount due in value added tax;
- g. the VAT identification number of the contractor.

Article 10. AMENDMENTS TO THE AVWD

10.1. Article 7, article 11 paragraph 5 and article 14 of the AVWD do not apply.

10.2. The terms "deliver" and "delivery", as used in the AVWD, shall be understood to mean "place at the disposal of" and "the making available to the principal" respectively. "Return" shall be understood to mean "completion".