
General Terms and Conditions
Bomecon Construction & Verhuur B.V.



These are Bomecon Construction & Verhuur B.V.'s general terms and conditions. These conditions consist of the following three parts:

- Part A: General (articles 1 up to and including 10)
- Part B: Purchase (articles 11 up to and including 13)
- Part C: Rental (articles 14 up to and including 22)

Part A must be read in conjunction with Part B (in case of purchase) or Part C (in case of rentals).

PART A: GENERAL

1. Definitions

1.1. In these General Terms and Conditions, the following capitalised terms are defined as indicated below, in which connection the singular term applies equally to the multiple term and vice versa:

- **Delivery Address:** the address indicated by the Purchaser as the location where the Products are to be delivered.
- **Purchaser:** the party that concludes an Agreement with Bomecon or negotiates about this with Bomecon.
- **General Terms and Conditions:** these General Terms And Conditions, belonging to the Agreement.
- **Bomecon:** Bomecon Construction & Verhuur B.V., with its registered office in Nijkerk and registered in the Commercial Register of the Chamber of Commerce under number 32081614.
- **Rental Agreement:** the Agreement between Bomecon and the Purchaser with respect to the rental of Products.
- **Purchase Agreement:** the Agreement between Bomecon and the Purchaser with respect to the purchase of Products.
- **Custom Products:** The products designed and produced by Bomecon for one specific assignment and this is indicated as such in the Offer.
- **Offer:** all offers, quotations, cost estimates and suchlike on the part of Bomecon.
- **Agreement:** the Agreement between Bomecon and the Purchaser, being a Purchase Agreement or a Rental Agreement.
- **Products:** the products to be delivered or made available by Bomecon within the context of an Agreement, consisting of innovative and other solutions for handling and vertical transport in the construction industry.
- **Business Address:** the address where Bomecon has its place of business, being Rijnerf 9 (3861 PV) in Nijkerk, the Netherlands.

2. Applicability

2.1. The General Terms and Conditions apply to all Bomecon Offers (article 3.1) and the Agreements between Bomecon and the Purchaser. Stipulations that deviate from these General Terms and Conditions are only binding if they have been agreed in a private instrument.

2.2. In the event one or more stipulations in these General Terms and Conditions prove to be invalid, such will not affect the validity of the other stipulations.

- 2.3. In the event Bomecon does not demand strict compliance with these General Terms and Conditions, such will not imply that Bomecon forfeits any right or that these General Terms and Conditions do not apply and/or that Bomecon would lose the right to demand strict compliance with these General Terms and Conditions in future cases.

3. Offers and formation of Agreements

- 3.1. Bomecon always makes Offers without obligation and such Offers are always valid for at least seven (7) days after their date, unless otherwise apparent from the Offer. All Offers may be withdrawn by Bomecon.
- 3.2. The parties have concluded an Agreement if: (i) the Purchaser accepts the Offer and Bomecon has confirmed the Agreement in writing or by email, (ii) the parties have signed a written Agreement or (iii) at the moment the Purchaser actually purchased the Products after receipt of an Offer.
- 3.3. Changes, additions and further arrangements in the Agreement must be agreed in a private instrument. In the event the Purchaser sends its general terms and conditions after formation of the Agreement, such conditions will not form part of the Agreement, unless Bomecon agrees thereto by means of a private instrument.
- 3.4. The Purchaser cannot derive rights from documents signed by Bomecon after the formation of the Agreement if the Purchaser has made the signing thereof dependent on the willingness to pay the payable invoices.

4. Prices and invoicing

- 4.1. All prices included in an Offer are exclusive of VAT, import duties, other taxes, levies and interest, unless expressly indicated otherwise. Offers that have been accepted do not apply automatically to repeat orders.
- 4.2. In the event one or more cost factors relevant to the Products undergo a price increase after the formation of the Agreement but before the delivery date, Bomecon will have the right to adjust the agreed price accordingly.
- 4.3. Bomecon has the right to invoice the Products to be delivered immediately after the formation of the Agreement, which means prior to delivery, and applies a payment period of 30 calendar days. In such cases, Bomecon will mainly invoice in anticipation of the delivery if the Purchaser usually applies a payment term exceeding 30 days.

5. Payment and security

- 5.1. Payment, including VAT, takes place within a payment term determined by Bomecon, which is usually 30 calendar days. The payment term is a strict deadline within the meaning of Article 6:83 sub a of the Dutch Civil Code (DCC). Payment must be made in the agreed currency and without setoff, discount and/or suspension.

- 5.2. If the Purchaser does not pay on time, all payment obligations on the part of the Purchaser will become interest-bearing at the rate of statutory commercial interest.
- 5.3. In the event Bomecon or a party acting on behalf of Bomecon engages third parties for the judicial or other forms of collection of any outstanding payment obligation, all related costs will be for the account of the Purchaser subject to a minimum of 15% of the amount claimed and furthermore subject to a minimum of EUR 500, to be increased by VAT.
- 5.4. Payments made by or on behalf of the Purchaser successively serve to pay the extrajudicial costs payable by the Purchaser, the legal costs, the interest due and then by order of age the outstanding principal sums irrespective of other instructions issued by the Purchaser.
- 5.5. Bomecon has the right at all times, irrespective of the agreed payment conditions, to demand that the Purchaser provides security for its obligations arising from the Agreement, in the absence of which Bomecon will have the right to suspend delivery of the Products or dissolve the Agreement, without prejudice to Bomecon's right to compensation. Bomecon has the right in particular to demand that the Purchaser makes a down payment of 50% prior to delivery of the Products.

6. Delivery

- 6.1. The delivery term indicated by Bomecon always applies as a target term and never as a strict deadline, unless expressly agreed otherwise. In case of late delivery, Bomecon will not be in default until after it has received a proper demand within the meaning of Article 6:82, paragraph 1, DCC with due observance of at least fourteen (14) days. Without prejudice to the statutory requirements, the Purchaser will not have the right to dissolve the Agreement after the aforementioned term has expired. Bomecon is never liable for the losses that arise therefrom, which means that dissolution results merely in an obligation to undo in case of the Purchase Agreement or an immediate end to the Rental Agreement.
- 6.2. Bomecon has the right to deliver the Products in parts or to await delivery until the entire order is ready. In case of delivery in parts, Bomecon will have the right to invoice all Products to be delivered immediately.
- 6.3. The Products are deemed to have been delivered in the following cases:
 - a) In case of delivery ex works/company: the moment of the actual granting of possession at Bomecon's Business Address.
 - b) In case of delivery at the Delivery Address indicated by the Purchaser: at the moment the Products have been unloaded by Bomecon at the agreed Delivery Address.

6.4. Bomecon delivers the Product in one of the following manners:

- a) Delivery by appointment: The Purchaser indicates at what time (on the commencement date of the Agreement) it wishes to have the Products delivered.
- b) Delivery within 24 hours: The Purchaser chooses to enable Bomecon to deliver the Products at some time during the period from 07.00 hours to 17.00 hours on the working day preceding the commencement date of the Agreement.
- c) Delivery within 48 hours: The Purchaser chooses to enable Bomecon to deliver the Products at some time during the period from 07.00 hours to 17.00 hours on the two working days preceding the commencement date of the Agreement.

6.5. Products are delivered exclusively on the ground floor. In the event delivery of Products cannot be completed within thirty (30) minutes as a result of the actions of the Purchaser, Bomecon will have the right to charge the waiting hours in accordance with the hourly rate agreed for the transport in question.

6.6. The Purchaser must ensure that the person so authorised is present on the agreed date of delivery to take receipt of the Products. Bomecon has the right to take the Products back if no one is present upon delivery. The Purchaser will owe transport costs if this is the case.

6.7. In the event Bomecon has to use a winch, lift or crane in order to carry out delivery at a Delivery Address, the Purchaser will offer sufficient opportunity to do so. The Purchaser indemnifies Bomecon against damage that may occur in this connection.

6.8. In the event the Purchaser does not take receipt of the Products before expiry of the delivery term, without having a legal ground for doing so, Bomecon will store the Products for the risk of the Purchaser at its warehouse at the Business Address. The Purchaser is always liable and indemnifies Bomecon against the costs involved therein.

7. Liability

7.1. Bomecon's liability under the Agreement is limited to losses sustained in the form of personal injury and property damage and also limited to: (i) the amount paid out by the insurer to Bomecon or (ii) if no appropriate insurance was taken out or it does not provide cover, an amount of at most the contract price of the Agreement. Bomecon's liability for loss profit/pure financial loss is excluded entirely.

8. Intellectual property rights

8.1. Bomecon reserves all intellectual property rights to all designs, images, drawings and models provided by Bomecon. Reproduction, disclosure or copying is only allowed if this has been approved in writing by Bomecon.

8.2. The designs, images, drawings and models referred to in article 8.1 remain the property of Bomecon at all times and must be returned to Bomecon immediately upon request.

8.3. In the event articles 8.2 and 8.3 are breached, the Purchaser will forfeit an immediately due and payable penalty of EUR 5000, without prejudice to the right to claim full compensation.

9. Dissolution

9.1. In the event the Purchaser applies for a suspension of payment or submits a bankruptcy petition, or if the Purchaser is declared bankrupt and/or in case the Purchaser doesn't comply with the Agreement, such as in the event an invoice is not paid in full, Bomecon will have the right to dissolve all or part of the Agreement without notice of default or judicial intervention or to take back the Products delivered.

9.2. In such cases, Bomecon will have unhindered access to the Products delivered. The Purchaser therefore authorises Bomecon irrevocably to enter or have entered the spaces used by or on behalf of the Purchaser.

10. Choice of law and forum

10.1. All Agreements concluded with Bomecon and/or Offers made by Bomecon are governed by Dutch law. Any disputes between Bomecon and the Purchaser will be submitted in the first instance to the Midden-Nederland District Court, Utrecht location, which has exclusive jurisdiction. The Vienna Sales Convention does not apply.

PART B: PURCHASE

11. Cancellation of the Purchase Agreement

11.1. The Purchaser may cancel the Purchase Agreement prior to delivery of the Products by means of an email message (administratie@bomecon.nl), in which connection the following cancellation costs will be due:

- a) In case of cancellation between 60 calendar days and 30 calendar days before the agreed date of delivery: 60% of the agreed purchase price.
- b) In case of cancellation between 29 calendar days and 10 calendar days before the agreed date of delivery: 70% of the agreed purchase price.
- c) In case of cancellation within 10 calendar days before the agreed date of delivery: 80% of the agreed purchase price.

11.2. The Purchaser cannot cancel the Purchase Agreement if the Products indicated in the Offer are designated as Custom Products.

12. Inspection, complaints and guarantee

12.1. The Purchaser is obliged pursuant to the Purchase Agreement to inspect the Products upon delivery for any visible shortcomings or damage. Subject to forfeiture of rights, the shortcomings and/or damage that is/are discovered must be indicated by the Purchaser on the delivery note, failing which the Purchaser must be deemed to have accepted the Products delivered unconditionally.

- 12.2. Bomecon guarantees for a period of six (6) months, calculated from the date of delivery, that upon delivery the Products have the characteristics that are required for normal use of the Products and whose presence the Purchaser did not have to doubt. Reliance on non-conformity is excluded after this term has ended. Guarantee claims can only result in repair or replacement of the Products or refund of all or part of the purchase price.
- 12.3. The guarantee included in article 12.2 lapses if (optional): (i) it concerns shortcomings and defects that could reasonably have been identified during the delivery inspection, (ii) the regulations imposed by Bomecon, as included in the user manual, were not applied or not applied correctly, (iii) the manufacturer's instructions were not followed and/or (iv) in case repairs and/or changes were made to the Products by or on the instructions of the Purchaser without Bomecon's approval.
- 12.4. Bomecon does not provide guarantees in respect of Products purchased from third parties. In the event such third parties provide guarantees, Bomecon will transfer these to the Purchaser in relevant cases.

13. Retention of title

- 13.1. Bomecon reserves ownership of all Products delivered by Bomecon to the Purchaser until the full purchase price of the Products has been paid, including any extrajudicial costs and interest.
- 13.2. The Purchaser is obliged to keep the Products delivered subject to retention of title with the necessary care and recognisably as the property of Bomecon.
- 13.3. The Purchaser is not allowed to pledge the Products delivered or grant third parties any rights in respect thereof for as long as the ownership thereof has passed to the Purchaser.
- 13.4. Bomecon will have unhindered access to the Products delivered in the cases referred to in article 13.1. The Purchaser therefore authorises Bomecon irrevocably to enter or have entered the spaces used by or on behalf of the Purchaser.

PART C: RENTAL

14. Commencement of the rental period

- 14.1. The rental period commences in principle on the commencement date indicated in the Rental Agreement. In the event Bomecon delivers the products early in accordance with article 6.4 under b (Delivery within 24 hours) or under c (Delivery within 48 hours), the rental period will commence on the day the Products are actually made available.

15. Ownership and condition of the Products

- 15.1. The Products remain the property of Bomecon at all times during the Rental Agreement. The Purchaser is therefore not authorised to alienate, pledge or otherwise encumber the Products.

15.2. The Purchaser is not allowed to alter the nature, intended use, composition or structure of the Products without Bomecon's consent. The Purchaser is liable for the actual costs involved in returning the Products to their original condition. A correction of 'new for old' will expressly not be applied for this purpose.

15.3. Changes and/or improvements implemented with Bomecon's consent are deemed to form an inextricable part of the Products. The Purchaser is not entitled to reimbursement of the costs incurred by it in connection with the implementation of such changes and/or improvements.

16. Intended use and use

16.1. The Purchaser will use the Products as a good renter and only use them for the purpose for which the Products are intended and for which they are suitable by their nature. The Purchaser will comply with the instructions, user manuals and instructions of Bomecon.

16.2. Unless the parties deviated from the above in writing, only Bomecon will have the right to assemble, disassemble and/or operate the Products. The Purchaser guarantees that all persons who operate the Products are competent to do so and hold any diplomas and/or certificates that may be mandatory.

17. Other obligations on the part of the Purchaser

17.1. The Purchaser informs Bomecon immediately if one of the following situations has occurred and/or is about to occur:

- a) theft or embezzlement of the Products
- b) damage to the Products
- c) any attachment levied against the Purchaser's Products
- d) application for suspension of payment or bankruptcy on the part of the Purchaser

17.2. The Purchaser requires Bomecon's approval if it:

- a) wishes to use the Products outside the Netherlands
- b) wishes to have the Products used by third parties
- c) wishes to sublet the Products to third parties

17.3. The Purchaser is required to act as a good renter and to arrange for the daily and regular maintenance of the Products, including in any event the activities included in the Product's user manual.

17.4. In the event the provisions of article 17 are breached, the Purchaser forfeits a penalty of EUR 250 for each day the breach continues. A breach of this provision also constitutes a ground for dissolution with immediate effect. If this is the case, the Purchaser will be obliged to return the Products to Bomecon and reimburse the losses, including in any event the rental income until the end of the Rental Agreement.

18. Breakdowns and inspection

- 18.1. Use of a Product must be ceased immediately in case of a breakdown. The breakdown must then be reported to Bomecon in writing as soon as possible but in any event within two (2) days stating the name of the Product, the registration number, a further explanation of the breakdown and the location of the Product. Bomecon will endeavour to repair the breakdown as soon as possible.
- 18.2. Apart from the first 24 hours after the breakdown is reported, the Purchaser will not owe rent in respect of the period the Products are not suitable for use. Whether the products are suitable for use will be determined by Bomecon.
- 18.3. Article 18.2 does not apply if the breakdown was caused by the Purchaser itself. If this is the case, the Purchaser will continue to owe the agreed rent during the entire rental period and the Purchaser will also be liable in respect of all costs, such as call-out charges and the costs of new parts, which arise from the repair of the Products.
- 18.4. Bomecon always has the right to carry out inspections of the maintenance and condition of the Products. Bomecon has the right to enter the Purchaser's areas for this purpose.

19. Liability in case of rental

- 19.1. The Purchaser is always liable during the rental period for the loss, theft of the Products and for the Products becoming unusable. The Purchaser is also liable for the loss caused to the Products during the rental period.
- 19.2. The Purchaser indemnifies Bomecon against claims, penalties and incremental penalty payments, which are recovered from Bomecon by third parties and against negligence on the part of the Purchaser when using the Products. The Purchaser will reimburse in full (100%) the costs incurred by Bomecon in connection with conducting a defence against claims for the aforementioned penalties, incremental penalty payments and losses.
- 19.3. The Purchaser is obliged to insure the Products and keep them insured for its own account and with the lowest possible excess until the moment the Products are returned to Bomecon. The Purchaser's rights arising from this insurance contract towards the insurer are hereby transferred in advance to Bomecon by the Purchaser. The Purchaser may take out insurance from Bomecon for certain Products.

20. Cancellation and end of the rental period

- 20.1. The Purchaser may cancel a Rental Agreement with a rental period of less than 20 weeks prior to the agreed commencement date by means of an email message (verhuur@bomecon.nl), in which connection the following cancellation costs will be due:
 - a) In case of any cancellation before the commencement date of the Rental Agreement: 100% of the customisation costs, as specified in the Offer, if the customisation was already carried out by Bomecon.

- b) In case of cancellation between 14 calendar days and 7 calendar days before the commencement date of the Rental Agreement: 100% of the customisation costs and the additional payment equal to the agreed rent for a rent period of one week.
- c) In case of cancellation within 7 calendar days before the commencement date of the Rental Agreement: 100% of the customisation costs and the additional payment equal to the agreed rent for a rent period of two weeks.
- 20.2. The Purchaser may cancel a Rental Agreement with a rental period of more than 20 weeks prior to the agreed commencement date by means of an email message (verhuur@bomecon.nl). In case of cancellation, the Purchaser will owe 100% of the customisation costs and the additional payment equal to the agreed rent for a rent period of five weeks in cancellation costs to Bomecon.
- 20.3. A Rental Agreement for a definite period ends on the agreed end date and cannot be terminated prematurely after the commencement date. A Rental Agreement for an indefinite period can be terminated at any time with due observance of a notice period of at least four (4) weeks.
- 20.4. The Purchaser is obliged in any event to send deregistration to Bomecon two (2) working days before the end of the agreed rental period. The deregistration must be sent to Bomecon by email message (administratie@bomecon.nl). The deregistration includes the following information:
- details of the Purchaser
 - contract number
 - description of the Products
 - (contracted or desired) end date
- The deregistration will also include the following information if Bomecon arranges for picking up the Products:
- the manner of collection (see articles 21.2 and 21.3)
 - the pick-up location
 - the place where the Bomecon driver is to report
 - contact person of the pick-up location
- 20.5. In the event the rental period is extended, the same rental conditions will continue to apply, unless and insofar as the parties deviate therefrom in a private instrument.
- 20.6. Deregistration per Product is also possible in case several Products are rented on the basis of one Rental Agreement. The transport and other costs involved therein are for the Purchaser's account. The rent for the remaining Products continues until the rental period is terminated.

21. Returning and picking up Products when the Rental Agreement ends

- 21.1. If it was stipulated that the Purchaser returns the Products at the Bomecon Business Address, the time at which the Products are returned will be equal to the moment at which the Purchaser hands the Products over to Bomecon. The Products must be returned within at most 24 hours after the contractual end date if the Products are located in the Netherlands, which term will be extended by 24 hours if the Products are located

abroad, failing which the Purchaser will forfeit an immediately due and payable penalty for each calendar day, which will be equal to the daily rent, increased by 20%.

21.2. This will take place in one of the following ways if Bomecon arranges for picking up the Products:

- a) Collection by appointment: The Purchaser indicates at what time (on the end date of the Agreement) the Products may be collected.
- b) Collection within 24 hours: the Purchaser chooses to enable Bomecon to collect the Products at some time during the period from 07.00 hours to 17.00 hours on the working day preceding the end date of the Agreement.
- c) Collection within 48 hours: The Purchaser chooses to enable Bomecon to collect the Products at some time during the period from 07.00 hours to 17.00 hours on the two working days preceding the end date of the Agreement.

21.3. If it was agreed that Bomecon will arrange for picking up the Products abroad, collection will take place within a period of 72 hours after the contractual end date. Generally speaking, Bomecon is unable to indicate within the 72 hours in question a fixed moment/time when the transporter will actually pick up the Products in connection with foreign return shipments, which means that the Purchaser must be aware that it must make every effort to facilitate the return shipment during the 72 hours in question.

21.4. In the event Bomecon arranges for collection of the Products, the Purchaser must ensure that Bomecon is able to pick up the Products within the agreed time period (see articles 21.2 and 21.3) at the location indicated by the Purchaser, failing which the Purchaser will forfeit an immediately due and payable penalty per calendar day, which will be equal to the daily rent, increased by 20%.

21.5. The Products must be returned properly cleaned. The Purchaser will forfeit an immediately due and payable penalty of EUR 750 if this provision is breached.

22. Inspection after the rental period

22.1. Bomecon will commence inspection of the Products within eight (8) days after the end of the rental period. In the event damage and/or deviations are discovered during the inspections, the Purchaser will be informed thereof promptly after the inspection has been completed. The Purchaser then has two (2) days to carry out a countercheck. After this term has ended, Bomecon will have the right to proceed with repair or replacement and the Purchaser will indemnify Bomecon against the related costs.
