

## GENERAL TERMS AND CONDITIONS OF PURCHASE AND SUBCONTRACTING SYNRG

### Version 2023.01

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## PART 1: GENERAL PART

### Article 1. General

1.1 The definitions below are applied in these general conditions.

- **"workers"**: all persons employed or engaged (directly or indirectly) by or on behalf of the contractor, including employees of the contractor, employees of the contractor's (sub)contractors, workers hired by the contractor, self-employed persons engaged by the contractor and/or other third parties engaged by the contractor;
- **"client"**: SYNRG Project Development Services B.V., Chamber of Commerce number 54525144);
- **"contractor"**: any natural or legal person with whom the client negotiates the formation of an agreement and/or with whom the client concludes an agreement;
- **"assignment"**: the delivery of goods and/or performance of works ordered by the client;
- **"agreement"**: any agreement relating to the delivery of goods and/or the performance of works concluded between the client and the contractor, any addition and/or amendment thereto, as well as all (legal) acts in preparation (including the client's request and the contractor's quotation) and in execution thereof;
- **"delivery of goods"**: all work and services related to the delivery of goods, insofar as they do not fall under the "performance of works";
- **"performance of works"**: the performance of design and/or implementation work, including the creation of a material work and/or the provision of services and/or the performance of demolition/dismantling work, whether or not accompanied by the delivery of goods, not being an employment contract;
- **"main agreement"**: the agreement between the client and the principal;
- **"principal"**: the client according to the main agreement;
- **"project"**: the assignment and/or the work described in the agreement;
- **"manager"**: the manager/board according to the main agreement.

1.2 These general conditions apply to all requests from and assignments by the client. These general conditions also apply to all offers, quotations, assignments, legal relationships and agreements, by whatever name, regarding the performance(s) to be provided by the contractor for the benefit of the client.

1.3 If the agreement relates to the delivery of goods, the provisions of SPECIAL PART PURCHASING CONDITIONS (2 A) will apply in addition to the provisions of GENERAL PART (1). In case of inconsistency, the provisions of the SPECIAL PART PURCHASING CONDITIONS (2 A) will take precedence.

1.4 If the agreement relates to performance of works, the provisions of SPECIAL PART SUBCONTRACTING

CONDITIONS (2 B) will apply in addition to the provisions of GENERAL PART (1). In case of inconsistency, the provisions of the SPECIAL PART SUBCONTRACTING CONDITIONS (2 B) will take precedence.

1.5 The working language regarding all matters relating to the agreement is Dutch.

1.6 These general conditions also apply to any additional or follow-up assignments for the client.

1.7 The applicability of the general conditions of the contractor is hereby expressly rejected by the client.

1.8 Any offer or commitment made by a representative of the client is only binding in so far as the client has confirmed this in writing. Verbal agreements will not be binding on the client unless and insofar as they have been confirmed in writing. Only the director of the client is authorised to represent the client.

1.9 Insofar as these general conditions are also drawn up in a language other than Dutch, the Dutch text will always be decisive in the event of differences and the interpretation of these general conditions.

### Article 2. Offers by the contractor

2.1 A request from the client for an offer is always without obligation. All costs incurred by the contractor in preparing an offer will be borne by the contractor.

2.2 An offer of the contractor is irrevocable, unless the contractor has expressly stated in writing in the offer that it is revocable.

2.3 The contractor will maintain its offer for a minimum period of three (3) months.

### Article 3. Agreement

3.1 An agreement is established only: (i) by the signing by the contractor of the unamended confirmation of assignment (also referred to by the client as a 'purchase order' or 'purchase order') sent by the client to the contractor, (ii) by the signing by the contractor of the unamended written agreement (also referred to by the client as a "subcontracting agreement") that the client has sent to the contractor or (iii) if the contractor fails to return the confirmation of assignment or agreement, respectively, within eight (8) days after the date of dispatch and within that period of eight (8) days does not object in writing to the contents of the confirmation of assignment or written agreement, respectively, or has started to carry out the assignment, as a result of which it must be considered that the contractor has accepted the assignment, on the conditions as stated in the confirmation of assignment or written agreement, respectively, and subject to the applicability of these general conditions. All this without prejudice to the provisions of Article 4 (Conditions precedent) of these general conditions. With due observance of the provisions of this Article 3.1, the agreement will be fully evidenced by the client's written confirmation of assignment or written agreement, respectively.

3.2 All agreements of the client are subject to, as if they were literally included therein:

- a. all technical and administrative provisions relating to the assignment and the associated documents, including drawings as well as an assignment definition, specifications, work description, step-by-step plan (per project), manual(s), official reports, recordings, statement of instructions,

- changes to specifications, explanatory notes, additions and implementation guidelines;
- b. these general conditions;
- c. everything else by which the client is bound to the manager and/or the principal under the main agreement, insofar as directly or indirectly related to the assignment, all this insofar as the contractor has been able to take cognisance thereof.

The provisions of the agreement will at all times take precedence over the provisions under a, b and/or c of this Article 3.2.

- 3.3 If the provisions and/or documents mentioned under a, b and c of Article 3.2 are mutually contradictory, none of the provisions and/or documents will take precedence over the other, but the provisions and/or documents will be considered in relation to each other. The following guidelines apply, without prejudice to the provisions of Article 3.5:
  - a. a newly written document will take precedence over an old written document;
  - b. a description takes precedence over a drawing;
  - c. a special rule takes precedence over a general rule.
- 3.4 The documents relating to the assignment are available for inspection by the contractor at the client's premises. Copies of these documents will be provided to the contractor on request. The contractor will be deemed to have inspected the specifications and all drawings and relevant documents and to have obtained all other information it requires.
- 3.5 The contractor will check the assignment and all documents, methods, information, instructions, decisions and the like relating to it. If the contractor discovers (or suspects that there are) ambiguities, errors and/or defects in the assignment, it will point these out to the client in writing forthwith and request clarification, before proceeding to execute, produce or deliver, failing which the contractor will be liable for all damaging consequences thereof.
- 3.6 Supplements to and amendments of provisions in the agreement and/or the documents forming part thereof pursuant to Article 3.2 will only bind the client if and insofar as they have been accepted by the client in writing.
- 3.7 The contractor will when carrying out the assignment follow the orders and instructions given by the client. This does not release the contractor from (i) its obligations as described in Article 3.5 and (ii) its professional responsibility, which under all circumstances remains fully with the contractor.
- 3.8 The contractor will perform the assignment in accordance with the requirements of sound work and in accordance with the agreement.

#### **Article 4. Conditions precedent**

The agreement is concluded under the following conditions precedent:

- a. the main agreement, for which the client has made an offer to the principal, has been formed in accordance with that offer by the client; and
- b. the principal has confirmed to the client its approval of the engagement of the contractor by the client.

These conditions precedent can only be invoked or waived by the client.

#### **Article 5. Joint and several liability**

If the agreement is concluded between the client and two or more contractors jointly, or if any obligation under that agreement rests on two or more contractors or legal entities, these contractors or legal entities will each be jointly and severally liable to the client.

#### **Article 6. Integrity**

- 6.1. The client applies the following principles:
  - a. respectful treatment of clients, contractors, employees and communities;
  - b. recognising responsibility with regard to the environment, also with a view to future generations;
  - c. creating economic value in an ethical and sustainable manner.
- 6.2 The client and the contractor consider health and safety a priority. Both parties attach importance to the continuous improvement and maintenance of their health and safety performance for all their employees and for all those involved in their activities.
- 6.3 The contractor guarantees that the offer(s) it has made under the agreement have been made lawfully and, more specifically, that these offer(s) have been made without agreement or concerted behaviour with co-tenderers, subcontractors and/or other third parties which has or have had the object or effect of unlawfully preventing or restricting competition and/or unlawfully increasing prices.

#### **Article 7. Ownership of documents, models, designs, etc.**

- 7.1 The appendices belonging to the agreement as referred to in Article 3.2 (Agreement) of these general conditions, as well as the drawings, calculations and other documents, models, working methods, etc., computer files and other data carriers (electronic or otherwise), which the client has supplied to the contractor, or which the contractor has made or arranged to be made for the assignment, or which the contractor has developed in collaboration with or in assignment of the client, will remain or become the property of the client and will be returned or sent to the client at the contractor's first request, such at the expense of the contractor.
- 7.2 The contractor is not permitted to use the items referred to in Article 7.1 in any way other than for the benefit of and as provided for in the agreement. The use of such items will be entirely at the contractor's risk.
- 7.3 The contractor will make the items referred to in Article 7.1 available to the client no later than upon delivery of the goods/completion of the work, failing which the client may suspend payment until such time as it has received them.

#### **Article 8. Intellectual property rights**

- 8.1 All intellectual property rights (regardless of whether registered or applied for), including but not limited to patents, copyrights, typographical rights, database rights, drawings, trademark rights, design rights, and rights derived therefrom, which are vested in the documents (forming part of the agreement) referred to in Article 3.2 (Agreement), as well as the documents referred to in Article 7.1 (Ownership of documents, models, designs, etc.), which have been provided to the contractor by the employer, will accrue to the client to the exclusion of all others.

- 8.2 The contractor will transfer, to the extent necessary, the aforementioned intellectual property rights to the client by entering into the agreement. The contractor will cooperate in this transfer at the client's first request and to perform all necessary acts - such as signing (transfer) forms - at its own expense.
- 8.3 The contractor will not be entitled to (additional) compensation for and in connection with the transfer of the rights referred to in Article 8.1, in addition to the price it receives from the client for the assignment.
- 8.4 The client will be regarded as the creator or designer of the items referred to in Article 7.1 (Ownership of documents, models, designs, etc.).
- 8.5 The contractor guarantees that the performance of the agreement will not infringe upon any intellectual property rights of third parties. The contractor will indemnify the client, without limitation, against claims by third parties for infringement of such rights. The contractor's obligations under this Article 8.5 will remain in effect after termination of the agreement.
- 8.6 If the contractor makes use of a BIM (Building Information Modelling) in the performance of the agreement, the following will apply. The contractor will grant the client an irrevocable and unconditional right of use in respect of all data (including drawings and models) within BIM. The contractor will have and keep these data available for the client at all times.
- 8.7 The contractor is not permitted to use the name and/or logo of the client or the principal in any way (e.g. via social media) without the client's prior written consent.

#### **Article 9. Confidentiality**

- 9.1 The contractor undertakes to maintain confidentiality towards third parties regarding the content of the agreement, the documents referred to in Article 3.2 (Agreement), the documents referred to in Article 7.1 (Ownership of documents, models, designs, etc.) and all data, information and knowledge (including constructions, diagrams and other business information and know-how) obtained (directly or indirectly) from the client, all in the broadest sense of the word.
- 9.2 The contractor will oblige in writing the workers and third parties involved by it in the performance of the agreement to observe the same confidentiality.
- 9.3 The contractor's obligations under Article 9.1 will remain in effect after termination of the agreement.

#### **Article 10. Noncompetition**

- 10.1 The contractor will refrain from making quotations and/or offers to the principal, directly or through third parties, including those for extensions and/or modifications, concerning the project.
- 10.2 The contractor will refrain from directly or through the mediation of third parties (whether or not actively) recruiting and/or employing and/or otherwise having work carried out by employees of the client itself or one of the other companies affiliated with the client. This obligation applies during the term of the agreement entered into between the client and the contractor. Furthermore, this obligation applies for a period of twelve (12) months after execution of the agreement.

#### **Article 11. Outsourcing and hiring**

- 11.1 Without the client's prior written permission, which permission may be made subject to conditions, the contractor will not outsource all or part of the

performance of the agreement to a third party and/or use hired workers.

- 11.2 If the contractor, after obtaining permission, assigns the performance of the agreement (in whole or in part) to another party (whether or not by means of outsourcing or hiring), the contractor will immediately enter into a written agreement in this regard with that third party (hereinafter called the "subcontractor"), the conditions of the agreement (including these general conditions) will be passed on one-to-one to the subcontractor. In the sense that the commissioning contractor takes the legal position therein of the client and the subcontractor takes that of the contractor. Within the framework of the application of this article or otherwise, the contractor will not stipulate any conditions that prevent the subcontractor from working directly for the client at the client's request. The contractor will waive such conditions upon first request.
- 11.3 The provisions of this article will not affect the contractor's obligations to the client under the agreement.
- 11.4 In case of outsourcing and/or hiring as referred to in this article, the contractor is and remains obliged to strictly observe the agreement (including but not limited to the provisions of Article 21 (Obligations in connection with various laws and regulations), such within the framework of the hirer's liability (Section 34 Collection of State Taxes 1990) and the vicarious tax liability (Section 35 Collection of State Taxes Act 1990). In this respect, the contractor's obligation to indemnify as referred to in Article 16 (Liability and indemnification) will apply in full.

#### **Article 12. Setoff**

- 12.1 The client may set off amounts owed by the client to the contractor in connection with the agreement (and for any other reason) against all claims that the client and/or (legal) persons affiliated to the client has/have against the contractor and/or (a) (legal) person(s) affiliated to the contractor. Set-off by the client will be possible irrespective of whether a claim or debt is due and payable, conditional or under time provisions.
- 12.2 In the case of set-off, the client will not be bound by the ratio arising from the agreement between that which is to be deposited in the G account and that which is to be deposited in the contractor's ordinary account, and is therefore entitled to set off the claim to be set off in full or to the extent desired by it against that which it owes in favour of the contractor's ordinary account.
- 12.3 The contractor waives any right of set-off.

#### **Article 13. Price and quantity**

- 13.1 All prices are fixed, unless otherwise agreed in writing. No settlement will take place due to increase in wages, prices and other cost-increasing factors, unless otherwise agreed in writing.
- 13.2 All prices apply to delivery of the goods to the place referred to in Article 32 (Place of delivery) and include all transport costs (carriage paid), import and export duties and other levies and taxes and include all costs of insurance, but exclude turnover tax (VAT). Currency differences (differences in exchange rates between the time of ordering and delivery/invoicing) also do not affect the price.

- 13.3 Unless the agreement expressly provides for offsettable quantities, the quantities stated in the agreement are stated as accurately as possible and, without the contractor being entitled to demand unit price adjustment, so much more or less should be delivered as the work requires.

#### Article 14. Invoicing

- 14.1 The invoices to be sent by the contractor to the client will comply with the requirements laid down by or pursuant to the Turnover Tax Act 1968.
- 14.2 The contractor will in any event clearly and conveniently state the following information on the dated and numbered invoices:
- the client's purchase order number (as stated in the confirmation of assignment) that relates to the assignment;
  - the work and place(s) of performance to which the invoice relates;
  - the time period and the completed performance to which the invoice relates;
  - the size of the wage bill included in the amount invoiced;
  - the percentage of the wage bill and the amount to be transferred to the G account;
  - the name, address and place of residence of the contractor;
  - the VAT number of the contractor;
  - a statement whether or not the reverse charge mechanism (as referred to in Section 24b Turnover Tax (Implementation) Decree 1968) is applicable. When applicable with reference to "turnover tax reverse charge". If not applicable with indication of the amount of turnover tax;
  - the contractor's payroll tax number;
  - the number of the contractor's G account as referred to in Article 15.8 (Payment and final settlement).
- 14.3 Invoices of the contractor will be submitted in singular, indicating the purchase order number specified by the client. The invoice will be submitted by email to the address [administratie@synrg.nl](mailto:administratie@synrg.nl), unless a different method of invoicing has been specified in the confirmation of assignment. The client is entitled to change the email address in writing, including by email.
- 14.4 The contractor is not entitled to increase the invoice with a late payment surcharge.
- 14.5 In case of an instalment scheme, the contractor will prepare a separate invoice for each instalment.
- 14.6 Upon request, the contractor will provide the client with all information free of charge for its administration or that of the principal.
- 14.7 The client is entitled to suspend payment if the contractor has not fulfilled all its obligations. Payment by the client in no way implies a waiver of rights.
- 14.8 The client may request the contractor to provide security for the performance of the agreement by the contractor. Such a request by the client will be made in writing. If the request is made by the client, the contractor will provide the requested security. Unless otherwise agreed, the value of the security will be equal to 100% of the price agreed between the client and the contractor for the assignment. The security will take the form of a sound bank guarantee to be issued by a Dutch bank.
- 14.9 Invoices that do not meet the requirements set out in the preceding paragraphs of this article will be returned

without being accepted for handling and will not be paid.

#### Article 15. Payment and final settlement

- 15.1 The contractor may invoice the agreed price to the client as soon as it has fulfilled all its obligations under the agreement. Unless otherwise agreed, payment by the client will be made within thirty (30) days from the date of receipt and approval of the relevant invoice. Payments by the client will only be made on Fridays. If the payment term expires on a day that is not a Friday or on a day on which no payment transactions are possible, the payment term will be extended until the next Friday on which payment transactions are possible.
- 15.2 Payments will be made on the basis of an agreed instalment schedule or, in the absence of such an instalment schedule, after the last delivery (in case of procurement) or after completion of the work (in case of subcontracting). The client will make payment only:
- as soon as the delivery/work or the part to which an (instalment) payment relates has been delivered by the contractor to the satisfaction of the client;
  - after receipt by the client of an invoice in accordance with the provisions of Article 14 (Invoicing); and
  - after the contractor has shown, if requested, that it has paid the workers involved in the work what is due to them, as well as that it has paid the social security contributions and wage tax due for these workers.
- 15.3 The contractor will submit its final settlement in accordance with the agreement. The final settlement will contain a layout and clear description of the original assignment, the agreed price and any additional and/or less work commissioned. The final settlement will also include a statement of any amounts already paid by the client. Additional work is only eligible for compensation if the client has given a purchase order in accordance with Article 41.1 (Additions and omissions). If the client has not received the final settlement within said period, the contractor will no longer be entitled to payment of the amount of any positive balance of the final settlement.
- 15.4 Notwithstanding the provisions of these general conditions, the client will be entitled to suspend payments until such time as the copy of the confirmation of assignment signed and unaltered by the contractor is received back by the client.
- 15.5 Payment by the client for the delivered (approved) items and/or (parts of) the work does not release the contractor from any guarantee and/or liability as arising from the agreement or the law.
- 15.6 If due to the contractor's default or incapacity the client performs all or part of the work, or has it performed by others, the client will be entitled to pay equitable compensation directly to subcontractors and suppliers of the contractor at the expense of the contractor for the work and deliveries for which the contractor has not yet received payment. The client will not do so until it has heard the contractor or its legal representative on the matter.
- 15.7 The client will always be entitled to pay the contractor's payroll taxes (including: wage tax, national insurance contributions, social security contributions, employee insurance contributions and income-related healthcare

insurance contributions) and turnover tax, for which it may be jointly and severally liable under Sections 34 and/or 35 Collection of State Taxes Act 1990 (or any other legislation or regulations), by depositing these amounts in the contractor's G account within the meaning of the aforementioned sections of the Act (G account). The contractor will ensure that a G account is available, unless agreed otherwise.

- 15.8 Without prejudice to the provisions of Article 15.7, the client will at all times be entitled to withhold the amounts referred to above in respect of wage tax (including: wage tax, national insurance contributions, social insurance contributions, employee insurance contributions and income-related health insurance contributions) from the contract sum and to pay any turnover tax owed directly to the Tax and Customs Administration on behalf of the contractor, as well as any turnover tax owed on borrowing.
- 15.10 In the cases referred to in Articles 15.7 and 15.8, the client will be discharged in respect of the contractor by such payment, insofar as these amounts are concerned.
- 15.11 If the client can reasonably conclude that the contractor will owe a higher amount of payroll taxes (including: payroll tax, national insurance contributions, social insurance contributions, employee insurance contributions and income-dependent healthcare insurance contributions) in respect of the agreement than the percentage set out in the agreement, it may amend that percentage.

#### **Article 16. Liability and indemnity**

- 16.1 The contractor will be liable for all damage, of whatever nature, arising in the context of the performance of the assignment. The contractor will compensate all damage suffered by the client, the principal and/or third parties as a result. The contractor will indemnify the client against all claims of third parties in this regard and will compensate the client if necessary.
- 16.2. The contractor is liable for all administrative fines and/or other (punitive) measures imposed on the client, the principal and/or third parties as a result of an act and/or omission of the contractor.
- 16.3 The contractor will be liable for damage to auxiliary materials, structures, tools, equipment as well as items not yet included in the project that have been brought to the construction site by the contractor, including damage due to theft, decline in value, vandalism and damage including arson.
- 16.4 The client will never be liable to the contractor for damage resulting from a delay in the performance of the assignment. If a delay occurs, the contractor will, in consultation with other contractors involved in the assignment, try to prevent, or at least minimise, any delay and any resulting costs and damage. Any delay and the threat of delay will be reported to the client immediately.
- 16.5 If the contractor suffers damage as a result of an event for which the client can be held legally liable towards the contractor, the contractor will notify the client in writing within two (2) months after the contractor has discovered or could reasonably have discovered the damage, also insofar as it concerns future damage, on penalty of the loss of the right to compensation. The client's liability will be limited to direct damage. Direct damage will in no case include: trading loss, loss of

production, loss of turnover and/or profit and depreciation of products.

- 16.6 The client will be entitled to set off any claim for compensation against the contractor in accordance with Article 12 (Set-off).

#### **Article 17. Insurance**

- 17.1 Without prejudice to the provisions of Article 16 (Liability and indemnification), the contractor will take out adequate insurance for the performance of the agreement from the time the agreement is entered into and will maintain adequate insurance during the performance of the agreement, the term of the agreement and the maintenance period. The contractor's obligations to do so include:
- having primary corporate liability insurance with a minimum cover of € 2,500,000 (in words: two million five hundred thousand euro) per event, including cover for in any case (design) liability (including consequential loss) and employer's liability;
  - having primary professional liability insurance with coverage of at least €2,500,000 (in words: two million five hundred thousand euro) per event;
  - when supplying or deploying motor vehicles or other (rolling) equipment respectively, insuring the risk of liability for damage towards the client and/or third parties in accordance with the statutory requirements. The contractor guarantees and indemnifies the client in this respect that (i) a liability insurance has been taken out for motor vehicles, which meets the requirements set by or pursuant to the Civil Liability Insurance (Motor Vehicles) Act, and also provides cover for damage resulting from the use of that equipment, (ii) comprehensive insurance has been taken out, (iii) the policy designates the client as co-insured and insurers cannot take recourse against the co-insured client and (iv) the motor vehicles and work equipment insurances do not contain any exclusions with regard to the work risk and/or damage to underground objects, such as cables and pipes;
  - adequately insuring the equipment used by the contractor (such as tools, building materials, construction materials) for property and personal injury, including the resulting damage caused by or related to the use of the equipment;
  - if the agreement fully or partly entails that items are made available to or by the client under whatever title, insuring these items adequately on behalf of and to the satisfaction of the client, which insurance will in any case include the risk of loss, theft, damage, storm, fire and third-party liability.

If several insurances apply to a claim, the contractor's liability insurance will at all times take precedence over other insurances.

- 17.2. Unless agreed otherwise and without prejudice to the provisions of Article 16 (Liability and indemnification), the contractor will take out Construction All Risks (CAR insurance) for the work described in the assignment or the contractor will ensure that work described in the assignment will be covered under its ongoing CAR insurance, all from the start of the work up to and including the end of the maintenance period. The CAR

insurance is subject to the approval of the client. The CAR insurance will ensure against all material damage, loss or destruction, regardless of the cause, with the setting aside of Sections 7:951 and 7:952 Dutch Civil Code. Unless another amount is stipulated in the agreement, the CAR insurance will at least provide cover for an insured amount per event of € 2,500,000 (in words: two million five hundred thousand euro). The CAR insurance will at least provide cover for the following risks:

- a. Damage to the work:
  - a.1. Up to and including the day of completion of the work, the risks of loss of or damage to the work, including the foundations, as well as the building materials and building materials present for the purposes of the work, are insured on the work or on the work site made available by the client to the contractor and possibly on another work site that has not been made available, which the contractor uses for the execution of the work and/or the storage of building materials for the purposes of the work.
  - a.2. In case of the transport of building materials between separate work sites as referred to in sub a.1., the transport risk of building materials intended for the work that are permanently incorporated in the work will be expressly included in the insurance.
  - a.3. During the agreed maintenance period, any material damage caused in the period up to completion of the work, or in connection with work performed pursuant to obligations under (maintenance) provisions in the agreement, is insured.
- b. Own fault: the insurance terms expressly stipulate that the insurance also covers the risks of loss or damage arising from own faults, including loss or damage to the part directly affected by own faults and loss or damage resulting from construction faults, errors in the design, faulty materials and inadequate expertise, all this notwithstanding the provisions of Sections 7:951 and 7:952 Dutch Civil Code.
- c. Liability: the insurance also covers the liability of all parties involved in the work and their workers (including engaged third parties) for damage caused to the work and/or the client's property by or in connection with the performance of the work and/or maintenance obligations, as well as for damage and/or injury caused to third parties. All parties involved in the performance of the work and their employees will be regarded as third parties in relation to each other.
- d. Damage to existing client property: the insurance also covers, on a premium-risk basis, damage to and/or loss or destruction of existing client property, provided such damage, loss or destruction is caused by or in connection with the performance of the work and/or maintenance obligations.
- e. Damage to property of the insured (including workers of the insured and engaged third parties): the insurance also covers, on a premium-risk basis, damage to and/or loss or destruction of property of the insured present at the work.

The (policy of) the CAR insurance will state the contractor as the policyholder. In addition to the contractor, it will state as the policyholder:

- a. the client;
- b. the principal;
- c. the manager;
- e. the (sub)contractor(s);
- f. the installer(s);
- g. the architect(s);
- h. the consultant(s);
- i. the structural engineer(s);
- j. the workers (including engaged third parties) of insured parties.

Ancillary contractors are also explicitly included in the insurance.

- 17.3 If necessary (whether or not at the client's first request), the contractor will take out additional insurance to ensure adequate insurance.
- 17.4 The amount insured will be adequate to cover the contractor's risks arising from the agreement. Unless provided otherwise, the insured amount per event will be at least € 2,500,000 (in words: two million five hundred thousand euro).
- 17.5 The contractor will not change any insurance (including the insured amount and (policy) conditions) to the detriment of the client. Insurance of liability will not affect the contractor's liability under the agreement or the law.
- 17.6 In case of any conflict between the principal's requirements for the content of the client's insurance and the actual content of the client's insurance, the latter takes precedent. That is say that the contractor cannot rely on the relevant requirements of the principal.
- 17.7 At the first request of the client, the contractor will provide the client with copies of the insurance policies of the insurance companies, as well as copies of the corresponding premium payments.
- 17.8 If the contractor fails to fulfil its insurance obligations, the client is entitled (but not obliged) to arrange its own insurance, this at the expense of the contractor.
- 17.9 The contractor will also bear the obligations imposed by the insurance conditions on (co-)insured parties. If the contractor fails to fulfil its insurance obligations, the client will be entitled to fulfil these obligations on behalf of and at the expense of the contractor.
- 17.10 The contractor will stipulate that the conditions of insurance expressly provide that the insurance company will not recover from the client any loss paid by it.
- 17.11 The excess of any insurance will be borne entirely by the contractor to the extent that the damage is for the contractor's risk and account.
- 17.12 Claims on any insurance taken out by the client will only arise through a declaration to that effect by the client. If the contractor is co-insured on a policy taken out by the client, the contractor will in case of damage caused by the contractor pay the excess or any damage not covered by the policy.

#### **Article 18. Supply of certificates, etc., and software**

- 18.1 If (guarantee) certificates and/or instruction manuals, etc., are required under the agreement, the contractor will ensure that these are in the client's possession no later than four (4) weeks after delivery of goods/performance of work, unless a different time is

specified. Failing this, the client may suspend payment until they are in its possession.

- 18.2 The contractor will grant the client a worldwide, non-exclusive, perpetual, royalty-free and irrevocable licence to use software and the documentation forming part of delivered items. The client will be entitled to sublicense the software and/or pass on the licence to the principal, whereby the principal will also be entitled to do so. The contractor guarantees that the software and documentation do not infringe any intellectual property rights of third parties.

#### **Article 19. Guarantee**

- 19.1 Without prejudice to its liability under the agreement or the law, the contractor will provide the guarantees mentioned in the agreement (including in these general conditions) with regard to the goods supplied by it and/or the work carried out, during the period stipulated in the agreement, in the absence of which a period of five (5) years will apply. The contractor guarantees in any case that the items delivered and the work carried out including the items used for that purpose are at least:

- a. of good quality, without any defect in design, choice of materials, construction, assembly and equipment; and,
- b. in accordance with what is stipulated in the agreement (and the accompanying documents, including those referred to in Article 3.2 (Agreement) of these general conditions) and suitable for the purpose for which they are intended and in accordance with the requirements imposed on them in the agreement and by or on behalf of the government.

The delivered goods will be of sound material and proper execution, produced by skilled persons under expert supervision, in all respects in accordance with the drawings and specifications and, if applicable, at least equal to samples or models provided or shown to the client by the contractor. The delivered goods will otherwise be fully capable of delivering the intended performance, as well as comply with all standards, inspection characteristics, laws and government regulations applicable at the time the agreement was concluded and at the time of actual delivery (as soon as the delivered goods are received by the client at the agreed place of delivery). The contractor further guarantees that the items delivered are suitable for the purpose for which they are intended.

- 19.2 With regard to the provisions of Article 19.1, the following further applies. If the manufacturer's guarantee is more extensive than that referred to above, at least the guarantee given by the manufacturer will apply. If the client is required to provide a certain guarantee to the principal, the contractor will furthermore (additionally) provide that guarantee. The provisions of this paragraph will never have the effect of excluding the guarantees referred to in Article 19.1 or limiting their scope or duration.

- 19.3 The guarantees referred to in Article 19.1 and 19.2 apply (i) in the case of procurement, from the day of delivery, (ii) in the case of subcontracting, from the day of delivery of the work by the client to the principal of the relevant part of the work and (iii) in the case of delivered technical components and installations in particular, from the day of commissioning or start-up.

- 19.4 Without prejudice to the client's other claims, the contractor will remedy all defects occurring during the guarantee period at its own expense, on the client's first demand and in consultation with the client, as soon as possible.

- 19.5 If, after written notice of default, the contractor does not remedy the defect, or does not remedy it in time and/or properly, or if remedy of the defect cannot be postponed, the client will be entitled, after written notice, to carry out the necessary work or have it carried out at the expense of the contractor. The client will be entitled to recover these costs from the contractor.

- 19.6 After replacement or repair within the guarantee period, the agreed guarantee (term) will commence again for the relevant part of the delivered goods or work.

- 19.7 Even after the expiry of the guarantee period applicable under this article, the contractor's liability, if any, under the agreement or the law will continue to exist, including liability for hidden defects.

- 19.8 The contractor will set up and maintain its organisation in such a way that the origin of each part or component of the delivery can be traced in terms of, among other things, production, origin and history.

- 19.9 The client's obligation to complain as referred to in Sections 7:23 and 6:89 Dutch Civil Code will not require the client to protest to the contractor within six (6) months after it has discovered or should reasonably have discovered a defect in the contractor's performance.

- 19.10 The contractor will be able to maintain and repair delivered items and/or executed works at least during their normal service life.

- 19.11 The client will be entitled to assign all claims it has against the contractor under guarantee (including the guarantee itself granted) and/or under this article to the principal (or another third party to be designated by the client). The contractor consents in advance to such an assignment.

#### **Article 20. Materials (including tools and aids)**

- 20.1 If and in so far the client is required under the agreement to provide materials required for the work, these materials will be delivered to the contractor on demand. The care of these materials will be at the contractor's risk and expense. The contractor will ensure proper receipt, storage and transport of the materials at the work site and any returns.

- 20.2 Unless otherwise agreed in writing, the contractor will provide all necessary materials, such as scaffolding, aerial platforms, etc., at its own risk and expense. The materials will be of sound quality and will comply with the applicable statutory requirements and regulations. All transport of materials and equipment will be for the contractor's risk and account.

- 20.3 If materials made available by the client are used for the work to be performed by the contractor, such use will be permitted only with the client's written permission. The materials will be returned to the client immediately after performance of the agreement (and otherwise at the client's first request) in the same condition as they were delivered. The contractor is responsible for ensuring that the materials are handled in a correct and careful manner and the contractor will ensure their correct receipt, storage and transport. Use of the materials will be at the contractor's risk and the

contractor will be fully liable for any damage caused by such use. The contractor will indemnify the client against third party claims in this regard.

## **Article 21. Obligations related to various laws and regulations**

- 21.1 If the contractor outsources all or part of the performance of the agreement to a third party, as well as if it uses workers made available and/or hired in for the performance of the agreement, laws and regulations must be strictly complied with.
- 21.2 The contractor will comply with all laws and regulations (current or future) regarding the performance of work and the employment of workers, including but not limited to the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (WKA), the Labour Market Fraud Bogus Schemes Act (WAS), the Foreign Nationals (Employment) Act (WAV), the Assessment of Employment Relationships (Deregulation) Act (DBA Act), the Placement of Personnel by Intermediaries Act (WAADI), the Balanced Labour Market Act (WAB), the Posted Workers in the European Union (Working Conditions) Act (WagwEU) and the Compulsory Identification Act (WID).
- 21.3 The contractor will observe and comply with all relevant standards and regulations in the performance of the agreement.
- 21.4 The contractor indemnifies the client against any fines and/or penalties and/or damages (as loss of income or claims from principal and/or third parties) due to violation of laws and regulations, including those mentioned in Article 21.1, 21.2 and 21.3.
- 21.5 In the context of compliance with the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act, the contractor will ensure that a guarantee account (G account) is available at all times.
- 21.6 The contractor will:
  - a. comply with the collective labour agreement(s) applicable to it and fulfil its statutory obligations to pay social insurance contributions, as well as payroll tax including national insurance contributions, employee insurance contributions and income-related healthcare insurance contributions (also in the context of the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act);
  - b. before commencement of the work, indicate which collective labour agreement applies and, at client's request, provide the pay slips for inspection;
  - c. show, at the client's request, its VAT number, its registration number with the trade association and the number of its licence to establish a business, insofar as this is required for the exercise of its business;
  - d. have a valid proof of registration with the Tax and Customs Administration, a recent extract from the trade register with the Chamber of Commerce and, if Article 34 (Hirer's liability) or 35 (Vicarious tax liability) of the Collection of State Taxes Act 1990 applies, the original G account agreement. The contractor will provide copies of these documents to the client before commencement of the work;
  - e. before commencement of the work in accordance with the agreement and, in the event of changes to the data during the term of the agreement, prior to the relevant change, provide, to the extent required and permitted by law, all the data referred to in the Collection Act 1990, the Liability of Recipients, Subcontractors and Clients Implementing Regulations 2004 and/or the Collection Guidelines of all workers employed by the client or principal. In any case, the data to be provided per worker will consist of: (i) name, address and place of residence details, (ii) date of birth, (iii) citizen service number (BSN), (iv) nationality, (v) the type of identity document, the number of the identity document and the period of validity and (vi) copies of a valid A1 declaration, residence permit, work permit and/or notification;
  - f. at the client's request, before the workers commence work, hand over a statement containing the names of all workers who are/were directly or indirectly employed by it;
  - g. provide a weekly timesheet, signed by the contractor, concerning the work assigned to the contractor. In case of foreign workers, the contractor will apply for a Dutch citizen service number for each worker and to report this to the client if a tax liability arises in the Netherlands;
  - h. once a quarter, or as much more often as the client wishes, provide the client with a statement regarding its payment of wage tax and social security contributions. If the contractor is affiliated with the Labour Standards Foundation (SNA), a copy of the most up-to-date NEN-4400 certificate will suffice;
  - i. indemnify the client against any liability towards and fines imposed by the principal and/or third parties for non-compliance by the contractor with its obligations under the agreement, or under laws and regulations;
  - j. maintain a payroll administration in accordance with the prevailing laws and regulations, including the Wages and Salaries Tax Act 1964, the Collection of State Taxes Act 1990, the Healthcare Insurance Act and the Social Insurance (Funding) Act;
  - k. strictly comply with all its obligations towards the workers;
  - l. if a worker employed by the contractor qualifies as a self-employed person, the contractor will enter into an agreement with this self-employed person in accordance with a model agreement approved by the Tax and Customs Administration and will provide a copy of the signed agreement to the client. The contractor is responsible for ensuring that the self-employed person performs the work in accordance with that agreement;
  - m. at the client's request, provide an original statement regarding his payment history with the Tax and Customs Administration, as referred to in the context of the laws and regulations adopted in the framework of the hirer's and vicarious tax liability;
  - n. in accordance with applicable laws and regulations (e.g. with the 'Stappenplan Verificatieplicht' of the Inspectorate SZW) check the validity and authenticity of workers' identity documents, store them and determine whether they are allowed to perform work in the Netherlands;
  - o. before commencing work in respect of workers with a nationality from outside the EEA and from

- outside Switzerland, send a copy of the valid proof of identity (as referred to in the Compulsory Identification Act);
- p. inform the client prior to the start of work if the performance of the agreement involves workers from EU countries other than the Netherlands, stating the names and dates of birth of the workers concerned and submitting proof (such as an A1 form) showing that the social insurance contributions for these workers are paid in the relevant other EU country for the duration of the agreement. In addition, if applicable, a copy of the EHIC (European Health Insurance Card) will be submitted on the basis of which medical care can be provided in the Netherlands.
- 21.7 The contractor guarantees that it (and all third parties engaged by it) will comply with all obligations arising from the WagwEU, including the resulting obligation to grant the relevant workers employment conditions at least in accordance with the WagwEU or the applicable collective labour agreement, the obligation to provide information, the obligation to designate a contact person, the obligation to keep records and the (digital) reporting obligation. The contractor will make the (digital) report in accordance with the WagwEU (and the associated relevant regulations and instructions) well in advance of commencement of the work, but at least fourteen (14) days prior to commencement of the work, and will immediately pass this on to the client.
- 21.8 If the client can reasonably come to the conclusion that the contractor will owe a higher amount in social insurance contributions, income tax and national insurance contributions in respect of work than the percentage set out in the agreement, it may change that percentage.
- 21.9 If the client is held liable under the law and thereby obliged to pay unpaid (advance) contributions, social insurance and taxes, the client will have recourse against the contractor for the entire amount, plus statutory interest from the time of payment by the client.
- 21.10 If the contractor fails to fulfil its obligations to its workers under the collective labour agreement(s) applicable to it and the client is held liable to fulfil these obligations, the client will have recourse against the contractor for the full amount, plus statutory interest from the time of payment by the client.
- 21.11 If the contractor and/or the third parties engaged by it can no longer meet their payment obligations under the law, the contractor will inform the client within five (5) working days from the day on which the incapacity to pay arose, failing which the contractor will be in default by operation of law towards the client. The client will then be entitled, without any notice of default or judicial intervention being required, to declare the agreement fully or partially terminated, without prejudice to its right to compensation.
- 21.12 The contractor guarantees that a person will be present at the work site during the activities who can communicate with the contractor's employees in both Dutch and the relevant foreign language.
- 21.13 Workers will demonstrate that labour is freely permitted for them or will possess a valid work permit.
- 21.14 Without prejudice to its other obligations, the contractor will, at the client's first request, ensure that all documents, including identity documents (if required), of which the client requires a copy in the context of the WID and/or the WAV, are submitted to the client.
- 21.15 The contractor will record all agreements on employment conditions for the purpose of the performance of the agreement in a clear and accessible manner.
- 21.16 Upon request, the contractor will provide the client and the competent authorities with access to these employment conditions agreements and cooperate in inspections, audits or wage validations. If the audit reveals that the contractor does not comply with the obligations as mentioned in the above paragraphs of this article, the costs of the audit, as well as related costs, will be borne by the contractor.
- 21.17 On request, the contractor will provide the client, or a person authorised by the client for that purpose, with access to these agreements on employment conditions if the client deems this necessary in connection with the prevention or handling of a wage claim regarding work performed for the work, as well as when irregularities are observed.
- 21.18 In the performance of the agreement, the contractor will comply with all obligations incumbent on the client and the contractor (as well as the workers) in working conditions legislation (including in any case the Working Conditions Act and the laws and regulations based thereon), as well as all other legal obligations arising from its role as a contractor.
- 21.19 If in the performance of the agreement an accident at work occurs within the meaning of the Working Conditions Act, the contractor will report the accident at work to the competent authority. The contractor will keep the client informed of the investigation following the report, which incidentally also applies to other investigations under the Working Conditions Act.
- 21.20 If the contractor has to share documents/information originating from or in the name of the client with the competent authority, the contractor will inform the client immediately in advance of the sharing.
- 21.21 The contractor will regularly carry out checks for compliance with applicable laws and regulations (including the WKA, WAS, WAV, DBA Act, WAADI, WAB, WagwEU and/or WID) and working conditions legislation by the contractor itself and its workers. In case of observed infringements/non-compliance, the contractor will take all necessary measures to ensure compliance with the obligations. If the client wishes to carry out periodic inspections, the contractor and/or its workers will cooperate as required and provide the necessary information.
- 21.22 The contractor will impose all obligations (to provide information) in this article in full on all parties with which it contracts for the performance of the agreement. The contractor will also stipulate that these parties subsequently include the above contractual obligations in full in contracts they enter into for the performance of the present assignment.
- 21.23 The contractor will indemnify the client against:
- all claims of third parties, including workers, regarding payment of wages arising from work performed within the scope of the execution of the agreement as well as other claims based on applicable laws and regulations and/or collective labour agreements and fines in connection with non-compliance with the applicable laws and regulations and/or collective labour agreements,

also including claims of third parties under the WAS;

- b. fines and/or (punitive) measures imposed on the client and/or the principal and/or third parties as a result of acts and/or omissions of the contractor (as well as third parties engaged by the contractor) in violation of the WKA, WAS, WAV, DBA Act, WAADI, WAB, WagwEU and/or WID (and/or any other laws and regulations);
- c. all claims of third parties, including the Tax and Customs Administration, in connection with taxes and contributions (including national insurance and social security contributions) payable by the contractor (as well as its workers).

21.24 The client may adopt (and amend) rules regarding the manner in which data must be provided to the client.

21.25 Without prejudice to the provisions of Article 11.2 (Outsourcing and borrowing), the contractor will pass on the obligations contained in this Article 21 as a perpetual clause to all parties engaged by and through it, including self-employed persons and intermediaries.

## Article 22. Identification and registration

22.1 The client may use a digital (construction site) registration system for the identification and registration of workers. To this end, the client may use systems provided by third parties and the client is entitled to change those systems. The contractor will use the digital (construction site) registration system now or in the future required by the client. If a digital (construction site) registration system has been made mandatory, the following provisions apply:

- a. the contractor will ensure that the obligation to comply with the digital (construction site) registration system is passed on to every subsequent party in the construction chain, so that it is clear which parties are present at the construction site and what their mutual relationship is;
- b. before a worker enters the construction site, the contractor will ensure that said worker is registered in accordance with the (construction site) registration system;
- c. the contractor will enter all required documents and/or data into the (construction site) registration system before the start of the work. The contractor will comply with the manuals and instructions regarding the (construction site) registration system, as then in force and as amended from time to time;
- d. The costs of the (construction site) registration system relating to the contractor and its workers will be borne by the contractor. The contractor will, at the client's option, reimburse such costs to the client or the client's designated third party;
- e. every third party engaged by the contractor will register its own workers in the (construction site) registration system in good time and in full;
- f. if the provisions in this article and/or the (construction site) registration system are not complied with in time and/or in full, access to the construction site will be refused or removal from the construction site will take place;
- g. the contractor will ensure that the workers and third parties engaged by it are familiar with and

comply with the (construction site) registration system. Furthermore, the contractor will cooperate fully with the inspection of and compliance with the (construction site) registration system.

22.2 Workers will always (also at the work site) be able to show a valid identity document and, if applicable, a valid work permit. The client may periodically (randomly) check them on this. This obligation applies in all circumstances. In case a digital (construction site) registration system has been made mandatory, each worker must furthermore be able to show an identity badge.

22.3 The contractor will indemnify the client against all damage resulting from the non-performance or incomplete performance of obligations under this article.

## Article 23. Organisation construction site

23.1 The contractor will follow only the orders and instructions given by the client. The client applies construction site rules. The contractor will take note of the construction site rules and to instruct its workers effectively and demonstrably about the applicable construction site rules and to ensure compliance with them.

23.2 The contractor will follow the instructions of the labour inspectorate as well as any adviser engaged by the client with respect to the organisation of the construction site, including with respect to the storage and safety of materials and the safety of the work to be carried out.

23.3 Days of rest or public holidays, holidays or other days off as determined or to be determined by the government or under the collective labour agreement, recognised generally or at the location of the work, will also apply to the contractor and its workers who carry out work on the site. Any ensuing additional costs for the contractor cannot be recovered from the client. The latter will also apply if the services of the contractor cannot be used due to strikes at the client or third parties, including the principal.

23.4 The work/deliveries to be carried out by the contractor will take place in accordance with the work schedule within the working hours applicable at the construction site, whereby the (workers of the) contractor will adapt to the holiday, working and break times of the client. The contractor will cooperate if the client requires work to continue during the winter season.

23.6 The client has the authority to deny workers access to the construction site or have them removed due to violation of the construction site rules and/or unsuitability, disturbance of the peace, misconduct, etc.

23.7 Unless the contractor itself or its authorised representative is on site, a person will always be present during the performance of the work who has the assignment to follow orders and instructions from or on behalf of the client and to convey these immediately to the contractor or its authorised representative. The name of this person will be made known to (the executor of) the client and to any manager on site. This person will report to the client's foreman at the start, interruption or termination of the work.

23.8 The contractor will cooperate in keeping the construction site clean. In particular, the contractor will at its own expense dispose of any rubble and

construction waste released during its work, including used packaging material, tools and equipment, as well as residual materials and consumables, in a legal and proper manner at all times and in accordance with the waste separation instructions specifically imposed by the client on its workers. The released debris, etc., will be discharged into containers of the contractor, unless otherwise agreed in writing.

- 23.9 The loading, unloading and parking of means of transport by the contractor and its workers will take place on the instructions of the client. Any parking, travel and accommodation costs will be borne by the contractor.
- 23.10 Unless otherwise agreed, the contractor will be responsible for keeping (canteen) areas or (canteen) huts clean, as well as providing drinking water, coffee and tea to its workers.
- 23.11 Only after written permission by the client will the contractor be permitted to affix advertising signs of its name, company and logo on or around the construction site. The advertising messages to be affixed and their placement require the approval of the client.
- 23.12 The contractor will have its workers wear uniform and recognisable work clothing.
- 23.13 The contractor will immediately notify the client of any calamities or events occurring at the work that do not form part of the normal course of business, and will provide all relevant information.

#### **Article 24. Laws, regulations, permits**

- 24.1 The contractor will comply with all laws and regulations relevant to the assignment, even if they are not explicitly mentioned in the agreement or in these general conditions.
- 24.2 The contractor will comply with all (public law) permits, exemptions, notifications and the like applicable to the project.
- 24.3 Permits or exemptions granted to the client in connection with the execution of the project, of which the project assigned to the contractor forms a part, will be available for inspection by the contractor.
- 24.4 Unless otherwise agreed, the contractor itself will arrange for the (public law) permits, exemptions, notifications and the like required in connection with the performance of its assignment. The contractor will also ensure that any third parties it engages have them.
- 24.5 The contractor declares that it is in possession of all diplomas/certificates required by law and, if applicable, by local regulations for the performance of its work; copies will be provided at the client's first request.

#### **Article 25. Safety, environment and surroundings**

- 25.1 The contractor is responsible for the safety, health and welfare of its workers and third parties. The contractor will take the required measures in accordance with the statutory regulations applicable to the work, as well as strictly comply with instructions, requirements and instructions from the client or government bodies such as the labour inspectorate.
- 25.2 The contractor will take such measures that no soil contamination and/or environmental damage occur at the building site during the supply and removal of equipment and/or materials or during the performance of its activities. However, if soil contamination and/or environmental damage nevertheless occurs as a result of unforeseeable calamities, the contractor will take

appropriate measures immediately and report this contamination to the client, as well as restore the original situation at its expense. The contractor will indemnify the client against claims from third parties in this regard.

- 25.3 The contractor will carry out its activities in accordance with the applicable environmental regulations and statutory requirements and will be prepared for and act in case of (environmental) emergencies and adverse environmental effects related thereto in order to prevent and counteract them.
- 25.4 Should an accident, near-accident or environmental incident occur, the contractor will report it verbally to the client immediately. No later than twelve (12) hours after the accident, near-accident or environmental incident has occurred, the contractor will report this to the (project manager of the) client by email. The contractor will inform the client on its own initiative and upon first request about the handling of the incident. Furthermore, the contractor will at the client's first request provide all necessary cooperation regarding the handling.
- 25.4 Companies are obliged to register hazardous substances in accordance with Dutch laws and regulations. These companies are also required to provide information on the nature and composition of these substances. As the contractor is aware of the composition of these substances, the contractor will provide the necessary product information itself in time, unambiguously and in writing upon delivery of building substances/materials. If necessary, this will take place at the client's first request.
- 25.5 The contractor guarantees that it is fully aware of Regulation EC No 1907/2006 on the Registration, Evaluation and Authorisation of Chemicals ("REACH") (or at least its successor, if any) imported, distributed or used in the European Union. The contractor guarantees that, if and to the extent applicable, the goods delivered therein fully comply with the requirements of REACH. The contractor will pass on the (pre-)registration numbers to the client. Insofar as the delivered goods are subject to other national or international regulations restricting the use of chemical substances, the contractor guarantees that the delivered goods comply fully with these regulations.
- 25.6 The contractor guarantees that the workers it deploys will strictly comply with all construction site rules and safety regulations, as they arise from the law and the client's Safety, Health and Environmental Plan for the project ("H&S plan"). Unless otherwise agreed, the contractor will, within eight (8) days after issuance of the assignment, provide the H&S plan completed and signed to the client.
- 25.7 The contractor will provide the personal protective equipment (for itself and its workers), as well as the inspection of critical equipment (equipment and means as included in the HSE Contractors Checklist SCC ). The contractor provides or participates in toolbox meetings (periodic safety instructions). The contractor and its workers will attend these toolbox meetings. The contractor will ensure the implementation of and compliance with the rules and regulations applicable to the work.
- 25.8 Workers sets to work by the contractor will immediately and conscientiously follow any directions and instructions given by or on behalf of the client regarding working conditions and safety in and around

the workplace, as well as such directions and instructions given by the Occupational Health & Safety Service, the Health & Safety Inspectorate and any external advisers engaged by the client.

- 25.9 The contractor's foreman or foreman will report to the client's foreman on the project at all times before commencing work.
- 25.10 If one or more of the obligations or conduct described in the previous paragraphs is not complied with by the contractor or by a worker, the client will be entitled to remove the contractor and/or that away from the project or work and to deny him further access.
- 25.11 If so-called winter provisions are applied, the contractor will cooperate with measures to combat lost time in accordance with Bureau Weerverletbestrijding of Technisch Bureau Bouwnijverheid, or at least its successor.
- 25.12 The contractor will hold a SCC\* or SCC\*\* certificate and the workers employed by the contractor will hold at least a B SCC. If the contractor does not hold a SCC\* or SCC\*\* certificate, the contractor will demonstrate that its business operations are equivalent to a SCC-certified safety management system mentioned above.
- 25.13 The contractor will provide workers and other visitors to the construction site with personal protective equipment and to ensure that personal protective equipment is worn.
- 25.14 If other contractors and/or subsidiary contractors are active on the project, the contractor will ensure proper coordination of the work and the various aspects of order and safety.
- 25.15 The client may instruct the contractor to take reasonable additional safety measures, which will be at the contractor's expense.

#### **Article 26. Privacy**

- 26.1 Should personal data be shared between the client and the contractor in the performance of the agreement, they will comply with the requirements arising from the applicable privacy legislation. The contractor will inform the client in writing in the manner in which the contractor complies with the applicable privacy legislation.
- 26.2 The contractor will take adequate measures to protect personal data that the contractor may receive from the client.
- 26.3 The client will be entitled to store, process and (re)use all information that the client obtains in the performance of the agreement, in accordance with the applicable privacy laws.
- 26.4 With regard to the data that the contractor makes available to the client, the contractor guarantees that these have been obtained and made available lawfully. The contractor further guarantees that these data do not infringe any third-party rights. The contractor indemnifies the client against all claims of third parties (including government bodies) against the client in this respect.

#### **Article 27. Inspection and testing**

- 27.1 The client and/or the principal and/or the manager of the work will at all times have the right to inspect or test the goods ordered or delivered/the work (in progress), including the items used for that purpose. If so, the contractor will provide such facilities as may reasonably be required for that purpose.

- 27.2 The costs of this inspection will be borne by the contractor if these goods/the work are rejected by the client and/or the principal and/or the manager of the work. Rejection is only possible if the inspected goods do not comply with what is stipulated in or pursuant to the agreement.

- 27.3 Inspection or approval does not relieve the contractor of any guarantee or liability, as arising from the agreement or the law.

#### **Article 28. Termination**

- 28.1 Any deadline agreed between the client and the contractor for the performance by the contractor of its obligations is a firm deadline, unless otherwise agreed in writing. By the mere expiry of the term, the contractor will be in default. Reminders sent by the client to the contractor will not affect this.

- 28.2 Without prejudice to the rights to which the client is entitled by law, the client will in each of the cases mentioned below be entitled to terminate the agreement in whole or in part without written notice of default or judicial intervention, without prejudice to the client's right to compensation:

- a. if the contractor fails to fulfil one or more of its contractual obligations, or fails to do so in time or in full, or if it is apparent from a communication from the contractor that it will fail to fulfil its obligations;
- b. in case of (an application for) (i) bankruptcy, (ii) (provisional) suspension of payments, (iii) debt restructuring, (iv) (partial) liquidation, or, (v) receivership of the contractor or of the (legal) person who has guaranteed or provided security for the contractor's obligations;
- c. If one or more of the contractor's goods are placed under administration;
- d. if the contractor transfers all or part of its business or the control thereof, shuts down all or part of its business, or its business ceases to operate in any other way;
- e. if the goods or part of the contractor's goods are subject to prejudgment or executory attachment;
- f. if the contractor cannot fulfil its obligations under the agreement due to force majeure;
- g. if the contractor dies;
- h. if the contractor violates any statutory regulation or is fined or subjected to any other measure;
- i. upon termination of the main agreement.

The client will also be entitled to assign the performance of the agreement, in full or in part, to one or more third parties at the risk and expense of the contractor.

In the event of termination of the agreement, the contractor will not be entitled to more than a compensation amounting to the value of the deliveries already made and approved (all this without prejudice to any rights of the client to compensation).

The contractor will report (a petition for) bankruptcy, (provisional) suspension of payments and (threat of) attachment to the client in writing without delay.

- 28.3 All claims which the client may have or obtain against the contractor in the cases referred to in Article 28.2 will be immediately due and payable in full.

- 28.4 The client may terminate the agreement at any time without observing a notice period and without stating reasons. In that case, the client will only pay the contractor a fee to be determined in proportion to the

state of the assignment at the time of termination and based on the agreed price.

- 28.5 In the event of (full or partial) termination of the agreement pursuant to Article 28.1 or Article 28.2, without prejudice to the client's right to compensation for damages and costs, the client may at its election:
- return to the contractor the goods already delivered but not (or no longer) to be used/the work already carried out at the contractor's expense and recover the payments already made for these goods/this work;
  - have the agreement completed itself or by third parties, possibly after written notice, using the goods/work already delivered/carried out by the contractor and the materials, equipment, etc., used by the contractor, whether or not for a reasonable fee to be agreed afterwards.
- 28.6 In the event of bankruptcy or (provisional) suspension of payments or debt rescheduling of the contractor, the client will be entitled to charge the contractor 10% (in words: ten percent) of the price agreed in the agreement and to set it off against any claims of the contractor, as compensation for the fact that the client will not be able to exercise its contractual and/or statutory (guarantee) agreements in connection with (hidden) defects in the work as a result of the bankruptcy or (provisional) suspension of payments or debt rescheduling of the contractor. In addition, the client is entitled to charge and offset the actual damages against the contractor's claims.

#### **Article 29. Right of suspension**

- 29.1 The client will be entitled to suspend its payment obligations if the contractor fails or threatens to fail in the performance of its obligations, regardless of whether such failure is attributable.
- 29.2 If, based on the circumstances known to the client at that time, the client reasonably believed it was entitled to suspend its obligations, the client will not be obliged to pay any compensation if it subsequently becomes known that the client's reliance on its right of suspension was not legally valid.
- 29.3 The contractor waives any right of suspension and/or right of retention.

#### **Article 30. Transfer and pledging of claims**

With regard to claims which the contractor has or will acquire pursuant to an agreement with the client, transferability (and, insofar as necessary, pledgeability) is excluded as referred to in Section 3:83(2) Dutch Civil Code, which exclusion has effect under property law.

#### **Article 31. Penalty clause; discounts**

- 31.1 For any breach by the contractor of any of the obligations defined in Articles 8 (Intellectual property rights), 9 (Confidentiality) and 10 (Noncompetition), the contractor will forfeit an immediately payable penalty without any notice of default or judicial intervention being required. This does not affect the client's right to claim performance or (additional) compensation. In the event of breach of an obligation described in Article 8 (Intellectual property rights) and/or Article 9 (Confidentiality), the penalty amounts to €50,000 per breach and a penalty of €5,000 per day or part thereof that the breach continues. In the event of breach of an obligation described in Article 10 (Noncompetition), the penalty amounts to €5,000 per

breach and a penalty of €500 per day or part thereof that the breach continues.

- 31.2 The client may impose discounts from the agreed price on the contractor due to late delivery of goods as referred to in Article 35 (Time of delivery) or late completion of the work as referred to in Article 39 (Commencement and completion of the work; deadlines). The amount of the discounts will be determined in the agreement. In the absence of such a provision, the discounts will amount to 2% (in words: two percent) of the agreed price per day with a minimum of €500 per day. Discounts will be forfeited by the passage of time only, without any notice of default or judicial intervention being required. This does not affect the client's right to claim performance or (additional) compensation.

#### **Article 32. Dispute resolution; applicable law**

- 32.1 All disputes - including those which are only considered as such by one of the parties - which may arise between the client and the contractor as a result of the agreement or agreements resulting from it, will be settled by the competent court in 's-Hertogenbosch (district of Oost-Brabant). However, the client will remain entitled to submit a dispute to the court with jurisdiction under the law.
- 32.2 The above is without prejudice to the possibility for both parties to request the preliminary relief judge of the 's-Hertogenbosch District Court (district of Oost-Brabant) in preliminary relief proceedings to make a provisional provision or to take protective measures.
- 32.3 This agreement is governed exclusively by Dutch law. Application of the Vienna Sales Convention 1980 (CISG: Convention on the International Sales of Goods) is excluded.

### **Part 2 A: SPECIAL PART (DELIVERY OF GOODS)**

#### **Article 33. Method of delivery**

- 33.1 Unless agreed otherwise in writing, delivery will be carriage paid, including duties payable (Delivered Duty Paid in accordance with Incoterms 2020). Transport of the goods will therefore take place at the contractor's risk and expense.
- 33.2 Breakage and/or damage caused during loading, transport and/or unloading and bagging will be at the contractor's expense.
- 33.3 Unloading and bagging outside the client's normal working hours can only take place after the client's prior written approval, unless otherwise stipulated by agreement.
- 33.4 Goods will be properly and environmentally friendly packed. The contractor will be liable for damage to persons or goods caused by insufficient packaging and/or damage to or destruction of this packaging. The contractor will take back the (transport) packaging materials at its own expense at the client's first request. The client is also entitled at all times to return the (transport) packaging materials to the contractor at its expense.

#### **Article 34. Place of delivery**

- 34.1 The contractor will deliver the goods to the place stated in the agreement. If no such place has been agreed, delivery will take place at the construction site, whereby the exact place of delivery at the construction site will be determined on the client's instructions.

- 34.2 If the client requires before delivery that the goods be delivered to a place other than the agreed place, the contractor will be bound to comply with this insofar as this can reasonably be required of it.

#### **Article 35. Time of delivery**

- 35.1 Deliveries will take place at the time stipulated in the agreement or in accordance with the schedule provided by the client. If the delivery time is exceeded, the contractor will be in default without further notice of default and will compensate all damage suffered by the client as a result on demand.
- 35.2 The contractor will be bound by the time of delivery specified in the agreement, or the delivery schedule set by the client, on the understanding that the client will be entitled to further determine the time or schedule of delivery by call-off and thus to fit in with the progress of the work, such without this entitling the contractor to a change in price or any other form of compensation.
- 35.3 The client will also be entitled, if the progress of the work so requires, to specify the order of deliveries to be made by the contractor, even if the agreement includes a specific order.
- 35.4 If for any reason the client is unable to take delivery of the goods at the agreed time through the established schedule, the contractor will store the goods, secure them and take all reasonable measures to prevent deterioration in quality until they are delivered.
- 35.5 If the contractor will not be able to complete its contractual performance at the time stated in the agreement or in accordance with the delivery schedule set by the client, it will notify the client immediately.
- 35.6 The contractor will be liable to the client for any fines or discounts on the contract price given to the client by the principal and/or the manager for late completion of (parts of) the work as a result of delays attributable to the contractor. The client will be entitled to recover such penalties or discounts from the contractor, possibly by withholding them from payments still due by the client to the contractor.
- 35.7 Without prejudice to the client's right, at its discretion and assessment, to claim fulfilment of the agreement, possibly with compensation, the client is entitled, if delivery does not take place at the agreed time via the agreed time schedule, to terminate the agreement in accordance with Article 28 (Termination) of these general conditions, without being obliged to pay compensation and costs.
- 35.8 The contractor will ensure that the delivered goods are accompanied by all necessary documentation, intended for the proper use of the delivered goods, as well as any inspection, test and control reports and guarantee certificates.
- 35.9 Partial deliveries will be permitted only with the written consent of the client.

#### **Article 36. Transfer of ownership; risk, acceptance, goods made available**

- 36.1 Ownership of goods to be delivered or manufactured will be deemed to have already passed to the client as soon as the contractor has processed, obtained from third parties, or manufactured them. In all other cases, ownership of the delivered goods will pass to the client at the time of approval after delivery, as soon as the delivered goods are received by the client at the agreed place of delivery. The delivered goods are at the

contractor's risk until the moment they have been received and accepted by the client.

- 36.2 Goods made available by the client are and will under all circumstances remain the property of the client and will be marked and individualised as such by the contractor in a manner recognisable to third parties; said goods will be deemed to be in good condition and in accordance with the required specifications, unless the contractor has complained in writing within four (4) working days of receipt. The contractor will at the client's first request designate the said goods and surrender these to the client.
- 36.3 In the event of rejection of the delivered goods by the client, the delivered goods will remain the property of the contractor and the risk will be deemed to have remained with the contractor and therefore never to have passed to the client. In that case the client is not obliged to fulfil its obligations under the agreement. The contractor will in that case credit the client for amounts already charged and will immediately refund the amounts already paid by the client.

#### **Article 37. Acceptance and refusal**

- 37.1 The delivery will not be deemed accepted by the client until it has been approved by both the client and the principal. The delivery is not final until it has been approved by both the client and the principal. Until the moment of final delivery, the client and/or the principal and/or the manager of the work have the authority to reject the delivery, so that all other time limits within which to complain, if and insofar as they may be applied by the contractor, do not apply against the client.
- 37.2 In case of rejection, the client will immediately notify the contractor. The contractor will immediately repair, replace and/or remove rejected goods or a part thereof at its first request and at its own expense, without the client being obliged to pay any additional compensation, without prejudice to the contractor's obligation to compensate any damage suffered by the client or third parties, including damage caused by delay. In the absence of repair, replacement and/or removal of the rejected goods, the client will be entitled to repair, replace and/or return them at the risk and expense of the contractor.
- 37.3 Without prejudice to the client's right, at its discretion, to (partially) terminate the agreement and to claim compensation, the client will, after rejection, be entitled to demand delivery of new goods that do meet the inspection requirements, within a period to be set by it, without being obliged to pay any additional compensation.
- 37.4 The client will be entitled to suspend payment of rejected goods.

#### **Article 38. Returns; packaging**

- 38.1 If standard trade items become surplus due to changes in the agreement and/or documents relating to the agreement and/or due to other causes beyond the client's control, these will be taken back by the contractor at the invoiced price.
- 38.2 Unless otherwise agreed in writing, the packaging of the items delivered and to be taken back by the contractor will not be paid for by the client.
- 38.3 The contractor will recover any packaging of the goods paid for at the client's first request, subject to

reimbursement of the costs charged to the client in this respect.

## **Part 2 B: SPECIAL PART (PERFORMANCE OF WORKS)**

### **Article 39. Commencement and completion of the work; deadlines**

- 39.1 The contractor will commence performance of the work at the time stated in the agreement. If the agreement does not specify a date and/or time when the contractor will commence the work, the client will determine this. The contractor will perform the Work in accordance with the time schedule received from the client and will deliver the Work at the time stated in the agreement.
- 39.2 The work will be deemed delivered if it has been recorded and approved in accordance with the provisions of Article 40 (Inspection and approval).
- 39.3 The work will be for the contractor's risk and account up to and including the date of delivery.
- 39.4 The client will be entitled to change the order of the work to be carried out if it deems it desirable in connection with the progress of construction, without being liable to pay compensation for damage and costs as a result.
- 39.5 If the contractor proves unable to complete its work at the agreed time or within the agreed time schedule, the contractor will immediately notify the client thereof orally and in writing.
- 39.6 The contractor will be liable to the client for any penalties or discounts imposed on the client by the principal and/or the manager for late completion of (parts of) the work as a result of a delay attributable to the contractor. The client will be entitled to recover these fines and discounts in full (even if the failure only relates to part of the total work) from the contractor, for example by withholding them from the payments the client still owes the contractor.
- 39.7 Without prejudice to the client's right to claim fulfilment of the agreement, at its discretion and assessment, possibly with compensation, the client is entitled to terminate the agreement in accordance with Article 28 (Termination) of these general conditions, without being liable to pay damages or costs, in the event that the times specified in the agreement for commencement or completion of (parts of) the work, or agreed periods within which the contractor must comply with its obligations, are exceeded in whole or in part, as well as in the event that in its opinion the work is not progressing satisfactorily.

### **Article 40. Inspection and approval**

- 40.1 The contractor will carry out the work in accordance with the requirements of sound work, as set by the client and/or the principal and/or the manager, and in accordance with what is provided in the agreement in this respect.
- 40.2 Inspection of the work will take place on a date and time as mentioned in the planning or at the first request of the client. The client may require the contractor or its authorised representative to be present at the inspection.
- 40.3 After the work has been inspected, the contractor will be notified as soon as possible whether or not the work has been approved, in the latter case giving reasons for withholding approval. The notification will be in writing, unless otherwise agreed.

- 40.4 The reinspection after withholding of approval will be in accordance with the above provisions.
- 40.5 The contractor will repair or replace the rejected work and/or parts thereof at the client's first request, without the client being obliged to pay any additional compensation, without prejudice to the contractor's right to termination and compensation for damage and costs incurred as a result.
- 40.6 Inclusion or approval does not release the contractor from any guarantee and/or liability, as they arise from the agreement concluded between the parties or the law.
- 40.7 If the work or part thereof is rejected, the client will also be entitled to suspend payment of the price relating to this work or part thereof.

### **Article 41. Additions and omissions**

- 41.1 Additions may only be carried out after approval by and after a written assignment from the client. The client will only pay for additions ordered by it in writing. In accordance with the planning, or if this is not specified after completion of the work, the contractor will provide a written overview of the additions ordered in writing and carried out. Unless otherwise agreed, the client will, in accordance with its planning and after approval of the overview provided by the contractor, issue a purchase order to the contractor for the additions ordered in writing and carried out. This purchase order will only be issued if the principal approves and the client provides an assignment for the additions. Invoicing and payment of additions will take place in accordance with Articles 14 (Invoicing) and 15 (Payment and final settlement) at the time of final settlement. Omissions will be determined by mutual agreement between the client and the contractor. Unless otherwise agreed, the settlement of omissions will take place at once with the final invoice.
- 41.2 Additions to be paid by the client, will, under no circumstances, include work which should reasonably be regarded as belonging to the work, in order to be able to deliver the work in accordance with the nature and intention of the assignment and in accordance with the requirements to be set for sound work.
- 41.3 The terms of the agreement between the client and the contractor will apply to additions and omissions, without prejudice to the other provisions of this article and unless otherwise agreed in writing.
- 41.4 Quantities are not offsettable, unless the agreement expressly provides for offsettable quantities. The quantities stated in the agreement are stated as accurately as possible and, without the contractor being entitled to demand a unit price adjustment, as much more or less must be delivered as the work requires.

### **Article 42. Maintenance period**

- 42.1 The contractor's maintenance period commences on the day after delivery of the work by the client to the principal. Unless another period is stipulated in the agreement, the duration of the maintenance period is twelve (12) months. Without prejudice to the above, the contractor's maintenance period is at least equal to the maintenance period agreed between the client and the principal.
- 42.2 The contractor will (without prejudice to the provisions of Article 19 (Guarantee)) repair all defects that become apparent during the maintenance period on first demand by the client at its own expense, to the

satisfaction of the client and within a period to be set by the client in fairness.

- 42.3 After expiry of the maintenance period, the work will be inspected again at the client's request to ascertain whether the contractor has fulfilled its obligations.
- 42.4 The client will be entitled to assign all claims it has against the contractor under the maintenance period to the principal (or another third party to be designated by the client). The contractor consents in advance to such an assignment.

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## GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND CONTRACTING SYNRG

Version 2023.01

Filed with the Chamber of Commerce under number 54525144.

### PART 1: GENERAL PART

#### Article 1. General

1. The definitions below are applied in these general conditions.
  - "**contractor**": SYNRG Project Development Services B.V., Chamber of Commerce number 54525144);
  - "**client**": the natural or legal person who gives the contractor an order to perform work and/or supply services and/or deliver goods;
  - "**agreement**": the agreement concluded between the contractor and the client regarding the performance of work and/or the provision of services and/or the delivery of goods;
  - "**project**": the assignment and/or the work described in the agreement.
2. These general conditions apply to all offers, quotations, assignments, legal relationships and agreements, by whatever name, in which the contractor undertakes/will undertake to perform work for the client.
3. For the sake of clarity, in these general conditions, "contracting/performance of work(s)" also includes demolition and/or dismantling work.
4. If the agreement relates to the execution of work, the provisions of Part II (Special part, Contracting of work) will apply in addition to Part I (General part). In case of any inconsistency, the provisions of Part II will prevail.
5. If any condition in these general conditions deviates from a condition in the agreement, the condition takes precedence.
6. These general conditions also apply to any additional or follow-up assignments.
7. The applicability of the general conditions of the client is hereby expressly rejected by the contractor.
8. All offers by the contractor are without obligation and will remain valid for a period of 4 (four) weeks, unless otherwise stated in the offer. The contractor will be entitled to revoke an offer within 3 (three) working days of acceptance.
9. An agreement between the client and the contractor, in compliance with these general conditions, is only concluded by (1) the signing of the agreement by the contractor and the client, or (2) the confirmation and/or acceptance by means of an order confirmation from the contractor, or (3) the commencement of the performance of the project by the contractor. Existence of the agreement is deemed fully proved by (1) the agreement signed by the contractor, or (2) the order confirmation from the contractor, unless the client has notified the contractor of any objections in writing within 5 (five) working days of the date on which the order confirmation was sent.
10. Any offer or commitment made by a representative of the contractor is only binding in so far as the contractor has confirmed this in writing. Verbal agreements will not be binding on the contractor unless and insofar as they have been confirmed in writing. Only the director of the contractor is authorised to represent the contractor.
11. Times indicated by the contractor will not be deadlines, unless the parties have expressly agreed otherwise in the agreement. An agreed deadline will only become effective

after the agreement has been concluded and all data necessary for the execution of the agreement are in the possession of the contractor. An agreed delivery time/(execution) period will be extended by at least the number of days that have elapsed between the time of agreement and the time when all the data necessary for the execution of the agreement are in the possession of the contractor.

#### Article 2. Price and payment

1. Unless expressly stipulated otherwise, the price stated in the agreement will be exclusive of turnover tax.
2. In case of an agreement for the execution of works, the price mentioned in the agreement is based on a continuous building process and the price level of wages, materials and suchlike at the time the contractor offers the agreement.
3. In the event of an agreement other than the execution of works, the price owed by the client will - unless otherwise stipulated in the agreement - be calculated on the basis of time spent and costs incurred, all this in compliance with the applicable hourly rates of the contractor.
4. The contractor will be entitled to invoice in accordance with the schedule in the agreement. In the absence of a time schedule, the contractor will in any event be entitled to invoice on a monthly basis.
5. Payment by the client will take place within 30 (thirty) days after the invoice date. Agreed payment terms are always strict deadlines.
6. Any objections to an invoice will be submitted to the contractor in writing with reasons within eight (8) days of the invoice date; in the event no objection is made (in time), the invoice will be deemed accepted.
7. The client will not be entitled to suspend or set off its obligations.

#### Article 3. Obligations of the contractor

1. The contractor will warn the client if the specifications drawn up by or on behalf of the client or the information, data or goods made available by the client or the changes requested by the client contain obvious errors or show obvious defects. The contractor is not bound to make any more than a general assessment and the contractor has no further duty to warn.
2. The contractor will have general liability insurance for businesses with a cover of €5,000,000 (in words: five million euro) per incident and a maximum of €10,000,000 (in words: ten million euro) per year.
3. At the request of the client, the contractor will provide a copy of the policy referred to in paragraph 2.
4. The contractor will, subject to specifically agreed standards and regulations, deliver in accordance with what the contractor may reasonably assume.

#### Article 4. Obligations of the client

1. The client is responsible for the timely supply as well as the correctness of the information, data and decisions provided by it or on its behalf to the contractor that are necessary for the proper performance of the agreement.
2. The client guarantees to the contractor that the information, materials, constructions and facilities to be made available by it will be made available to the contractor in time and in an appropriate manner, and in such a way that the contractor can carry out its work in the most efficient way, failing which the client will compensate the contractor for any additional costs caused by this.
3. The client will review documents produced by the contractor in the performance of the assignment in good

- time and, if so requested, authenticate them after approval.
4. The client will inform the contractor in writing which natural person or persons are authorised to represent the client. Unless expressly agreed otherwise, each of the director(s) and the project manager(s) are authorised to represent the client.
  5. The client is responsible for the structures and working methods prescribed by it or on its behalf, and for the orders, drawings, directions and instructions given by it or on its behalf.
  6. The client is liable for all damage resulting from defects in buildings (including land and soil), building materials or resources made available by or prescribed by the client. The client is liable for damage resulting from activities carried out or deliveries made by the client or on its instructions by third parties.
  7. The client will ensure that work and/or deliveries to be carried out by third parties are carried out in such a way that they do not cause any hindrance to the contractor.
  8. The client is responsible for ensuring that (1) the contractor has the necessary information and approvals (including exemptions (under public law), permits and the like) in good time, (2) locations where work is to be performed are available to the contractor in good time, all this with the necessary connections to (utility) services, such as electricity, (drinking) water, gas, compressed air, telecom and sewerage connections and (3) there is a proper opportunity for the supply, storage and/or removal of building materials and resources.  
Allowing the start of work before an approval is irrevocable will be at the client's risk and expense.  
If it has been agreed that the contractor will take care of applications for one or more approvals (as referred to under (1) in this Article 4.8) and/or applications for connection to utilities, the following will apply. The contractor will only have a best-efforts obligation. The contractor does not guarantee that an application will be granted, that a requested approval will be granted or that an approval will be maintained. Applications may be subject to fees, levies or other costs, which will for the account of the client. If third parties, such as architects or experts, have to be called upon for the purpose of an application, the costs involved will be for the account of the client. The work of the contractor is solely concerned with the drawing up and submission of the application, any legal remedies (such as objections and appeals) are not included. The contractor is not responsible for the processing times of applications by the relevant authorities. Applications will be made in the client's own name or by the contractor as authorised representative of the client; under the agreement, the client authorises the contractor to do so, whereby the contractor may require a separate written authorisation.
  9. The client guarantees that the locations where work is carried out are asbestos safe, as meant in the Working Conditions Act and the associated regulations. The survey and possible remediation of asbestos will be the responsibility of the client. The removal of any asbestos will be carried out in a timely manner by a recognised and certified asbestos removal company at the client's risk and expense. The client will provide the contractor with the available asbestos surveys and evaluation reports in the event of asbestos removal as soon as possible (and in any case at/immediately after conclusion of the agreement).
  10. The client will, and the client guarantees, that the third parties it engages (other than the contractor) comply with all current and future legislation and regulations relating to the performance of work and the employment of

workers, including the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (WKA), the Foreign Nationals (Employment) Act (WAV), the Placement of Personnel by Intermediaries Act (WAADI), the Labour Market Fraud (Bogus Schemes) Act (WAS) and the Compulsory Identification Act (WID). The client indemnifies the contractor against any fines and/or penalties and/or damage as a result of violation of these statutory regulations.

11. The client will make every effort to guarantee the safety of the contractor, its workers and any third parties engaged by the contractor, as well as the surroundings of the project.

#### **Article 5. Liability**

1. The contractor will not be liable for any indirect loss and/or consequential loss, including (but not limited to): loss of profit, missed savings, loss due to business interruption, loss of turnover, loss of image, business interruption and other consequential or indirect loss resulting from any failure of performance, untimely performance or improper performance on the part of the contractor.
2. The contractor's liability will be limited to compensation of the direct damage which is the direct result of an attributable shortcoming in the performance of the agreement. Direct damage will be deemed to include, but is not limited to, the reasonable costs incurred to establish the cause and extent of the damage, the reasonable costs incurred to have the performance of the contractor conform to the agreement and the reasonable costs incurred to prevent or limit the damage. This liability will be limited per agreement to a maximum of the amount paid by the contractor's insurer, increased by the excess payable by the contractor under the applicable insurance policy in the case concerned. If, for any reason whatsoever, the insurer makes no payment, the liability per agreement will be limited to a maximum of 1 (one) time the price under the relevant agreement, with a maximum of € 50,000 (in words: fifty thousand euro).
3. The limitation of liability included in this article do not apply if and insofar as there is intent or conscious recklessness on the part of the contractor.
4. The client will take measures to limit damage. The contractor will be entitled to undo or limit the damage by repairing or improving the work performed.
5. All claims of the client against the contractor, whether on account of a breach of contract, unlawful act, or on any other grounds, will lapse as soon as a period of one (1) year has elapsed after the day on which the client became aware or could reasonably have become aware of the existence of those claims and the client has not brought the relevant claims in court within that one (1) year period.
6. The provisions of this article apply to both contractual and non-contractual liability of the contractor towards the client.

#### **Article 6. Indemnification**

The client will indemnify the contractor, its workers and any third parties engaged by the contractor in connection with the execution of the agreement against all claims by other third parties for compensation of any (alleged) damage caused by or otherwise related to the services provided by the contractor under the agreement, unless the contractor, had the client suffered such damage, would have been liable for it under these general conditions and then only for the amount in excess of which the liability of the contractor would then be limited.

### **Article 7. Outsourcing**

The contractor will always be entitled to subcontract the performance of the agreement in whole or in part.

### **Article 8. Intellectual property**

1. The performance of the agreement by the contractor does not also imply the transfer of and/or grant of a licence in respect of any intellectual property rights vested in the contractor. All intellectual property rights that arise during, or derive from, the performance of the agreement will be vested in the contractor. The information and data provided by the contractor remain vested in the contractor and may only be used by the client for the purpose for which they have been provided.
2. In so far as the contractor makes works (as referred to in this article and/or under the agreement) and/or (computer) software available to the client, this means that the client receives a right of use. To that end, the contractor grants the client a non-exclusive and non-transferable right of use to the works and/or the (computer) software. This right of use includes the permission to use the work and/or the (computer) software in the normal course of business.
3. The contractor is entitled to use the project for marketing purposes.

### **Article 9. Retention of title**

Until the client has settled all existing and future claims of the contractor of the categories mentioned in Section 3:92(2) Dutch Civil Code, the contractor remains the owner of all goods delivered and to be delivered by the contractor.

### **Article 10. Non-recruitment of personnel**

The client will refrain from directly or through the intermediary of third parties (whether active or not) recruiting and/or employing, or otherwise having work performed by, employees of the contractor itself or any of the other companies affiliated to the contractor. In this connection 'employees' will also mean: third party or parties called upon by the contractor for the execution of the agreement and/or who are or have been involved in any other way in the execution of the agreement. This obligation will apply during the term of the agreement and for 12 (twelve) months after termination of the agreement. If the client breaches the provisions of this article, the client will forfeit to the contractor an immediately payable penalty of € 5,000 (in words: five thousand euro) for each breach, increased by € 500 (in words: five hundred euro) for each day that the breach continues.

### **Article 11. Confidentiality**

In so far as confidential information is provided within the framework of the (execution of the) agreement, the parties will not use such confidential information other than is necessary for the execution of the agreement. Confidential information may only be provided to third parties in so far as necessary for the execution of the agreement; these third parties will be required to observe the same confidentiality. Confidential information is the information which the parties know or should know is confidential, or the information which a party has indicated is confidential.

### **Article 12. Cost-increasing circumstances**

All costs that are the result of circumstances which the contractor could not reasonably have taken into account when entering into the agreement will be borne by the client. If the contractor is of the opinion that cost-increasing circumstances have occurred, the client will be informed accordingly. The contractor is entitled to charge the client directly for the costs referred to in this article.

### **Article 13. Delivery of goods**

1. In the event that the agreement provides for the delivery of goods by the contractor, delivery will be made from the contractor's factory ("ex-works") in accordance with Incoterms 2020.
2. However, if delivery on site has been agreed, the goods will be delivered on a means of transport to the place stated in the agreement. If no specific place has been agreed in the agreement, the delivery will be made at the construction site or at least as close to it as possible. The contractor will not be obliged to transport the goods further than to where the means of transport can reach in a proper manner and at a proper unloading location. The client will ensure that there is sufficient space for delivery and unloading. The client will unload and take delivery of the goods immediately. If the place of delivery (and failing that, the construction site) is not accessible, or is not unloaded immediately, the client is liable for any costs incurred as a result. The client is responsible for unloading the goods and for having the necessary resources at its disposal (such as a crane or forklift truck).
3. The client will check the goods upon delivery or immediately after delivery for external condition and quantity. On penalty of forfeiture of a legal claim, complaints will be made within 14 (fourteen) days after delivery.
4. The contractor guarantees that the goods will function in accordance with their specification for a period of 3 (three) months. Unless agreed in writing, no further guarantees will be given.

### **Article 14. Guarantee**

1. If the agreement or these general conditions state that a guarantee is given by the contractor, the following will apply.
2. Unless otherwise provided in the agreement, the guarantee (1) will apply in the case of delivery of goods upon delivery thereof and (2) in all other cases upon delivery of the project/the work. The client is not entitled to invoke the guarantee if it has not fulfilled all its obligations.
3. No reliance on the guarantee can be made in case of: (1) failure to follow (user) instructions, (instruction) guidelines and/or manuals, (2) defects as a result of normal wear and tear, (3) careless and/or inexperienced use by the client, (4) defects as a result of calamities or accidents and (5) items, methods and constructions that have been applied on the instruction of or on behalf of the client, as well as goods supplied by or on behalf of the client.
4. In the event of a justified claim under the guarantee, the contractor will proceed to repair or replacement; the contractor will not be obliged to do more than this. The client will in all cases offer the contractor the opportunity to proceed with repair or replacement. If the client fails to do so, any claims in this regard will lapse.
5. If it appears that the client has wrongly laid relied on the guarantee, the costs incurred by the contractor in connection with investigation, repair and/or replacement will be for the account of the client.
6. If in the opinion of the contractor the costs of repair or replacement are not in reasonable proportion to the client's interest in repair, the client will only be entitled to compensation.
7. The contractor is entitled to transfer to the client any guarantee provided by its subcontractor/supplier to the contractor. The transferred guarantee replaces the guarantee issued by the contractor to the client, insofar as the guarantee is at least equal to (or more comprehensive

than) the guarantee issued by the contractor. In that case the contractor is discharged from its guarantee obligation towards the client. The client will cooperate with this transfer upon first request.

8. In the event of discovery of a fact and/or circumstance that could give rise to a claim under a guarantee, the client will notify the contractor thereof in writing as soon as possible. On penalty of forfeiture of rights, the notification will in any event be given within 1 (one) month of discovery.

#### **Article 15. Miscellaneous**

1. Circumstances beyond the contractor's control, which are of such a nature that performance or further performance of the agreement cannot reasonably be expected of the contractor, including (but not limited to) strikes, business interruptions, stagnation of deliveries, lack of raw materials and/or (building) materials, price increases as a result thereof and disruptions in the production processes of both the contractor and its suppliers and subcontractors, will be regarded as force majeure and will entitle the contractor to cancel the part of the agreement that has not yet been performed without any obligation to pay compensation. In the event of temporary force majeure, the contractor will be entitled, at its option, either to suspend delivery during that period or to cancel the part of the agreement that has not yet been performed, also without any obligation to pay compensation.
2. The contractor will at all times be entitled to require the client to provide security for the performance of its obligations under the agreement. The client will comply with this on first demand. If the client does not provide security or provides insufficient security, the contractor will be entitled to terminate the agreement.
3. The contractor will be entitled to terminate the agreement without giving notice of default case of bankruptcy, (provisional) suspension of payments or a declaration of applicability of the debt rescheduling scheme with regard to the client.
4. If a model, sample or example (including drawings, artist impressions, etc.) is shown by the contractor or provided to the client, this is for general indication or illustration purposes only. The goods to be delivered may deviate from the model, sample or example shown or provided.
5. Slight deviations and deviations customary in the sector, as well as differences in quality, quantity, dimensions or workmanship cannot constitute grounds for complaints from the client.

#### **Article 16. Law and choice of forum**

1. The relationship between the contractor and the client is governed by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.
2. All disputes between parties arising from an agreement will be submitted exclusively to the court in 's-Hertogenbosch (district of Oost-Brabant).

### **PART II: SPECIAL PART, CONTRACTING OF WORK**

#### **Article 17. Performance period, postponement of delivery and compensation for late delivery**

1. If the term within which the work is to be completed is expressed in working days, a working day will be understood to be a calendar day, unless it falls on a rest day or holiday generally or locally recognised, or prescribed by the government or by or by virtue of collective labour agreements, holidays or other non-individual days off. Working days will be deemed

unworkable if, due to circumstances for which the contractor is not responsible, the majority of the workers or machines cannot work for at least 5 (five) hours.

2. The contractor will be entitled to an extension of the term within which the work will be completed if, as a result of force majeure, circumstances for which the client is responsible, or as a result of additions or omissions, it cannot be demanded of the contractor that the work be completed within the agreed term.
3. If the commencement or progress of the work is delayed by factors for which the client is responsible, the damage and costs arising therefrom for the contractor will be compensated by the client.
4. If the term within which the work is to be completed is exceeded, the contractor will owe the client a fixed compensation of €40 (in words: forty euro) per working day until the day on which the work is completed, except in so far as the contractor is entitled to an extension of the building period. For the purposes of this paragraph, the day on which the work was ready for delivery according to the contractor (provided that the work is then deemed to have been delivered), or the day on which the work is put into use by the client, will be deemed to be the day of delivery.
5. The fixed compensation as referred to above in paragraph 4 will amount to no more than 10% (in words: ten per cent) of the contract sum if the contract sum is less than or equal to €20,000 (in words: twenty thousand euro) and to no more than 5% (in words: five per cent) of the contract sum if the contract sum is more than €20,000 (in words: twenty thousand euro).

#### **Article 18. Delivery**

1. The work will be deemed delivered when the contractor has notified the client that the work is ready for delivery and the client has accepted the work. On delivery, a delivery report will be drawn up, to be signed by both parties. Any shortcoming detected by the client that is not acknowledged by the contractor will be stated as such in the delivery report.
2. If the contractor has notified the client that the work is ready for delivery and the client does not notify the contractor within 8 (eight) days whether or not it accepts the work, the work will be deemed to have been delivered.
3. If the client rejects the work, it will do so in writing, stating the defects that are the reason for rejection. Minor defects, which can be repaired within 30 (thirty) days, will not be a reason for rejection, provided that they do not impede the putting into use of the work.
4. If the client proceeds to put the work into use, the work will be deemed to have been completed.
5. If the parties establish that, in view of the nature or scope of the shortcomings, delivery cannot reasonably be considered to have taken place, 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 deemed to have been delivered, the work will be at the client's risk.
7. Any shortcomings recognised by the contractor will be remedied as soon as reasonably possible.
8. If the Quality Assurance (Building Sector) Act (Bulletin of Acts and Decrees 2019, 382) has come into force, the contractor will, in deviation from Section 7:757a Dutch Civil Code, not provide a (delivery) file to the client with regard to the building realised. Applicability of said Section 7:757a Dutch Civil Code is excluded.

#### **Article 19. Liability after delivery**

1. After the day on which the work is deemed to have been delivered (and if a maintenance period has been agreed after the expiry of that maintenance period), the contractor will no longer be liable for any shortcomings in the work. This will not apply if there is a defect in the work which is attributable to the contractor and that defect was not reasonably discovered by the client earlier (i.e. at the time of delivery and in case of a maintenance period before the expiry thereof) or reasonably should have been discovered.
2. In the event of discovery of a defect the client will notify the contractor in writing as soon as possible. On penalty of forfeiture of rights, the notification will in any event be given within 1 (one) month of discovery.
3. A claim on account of the defect referred to in paragraph 1 will not be admissible if it is instituted after the lapse of 2 (two) years from the day on which the work is deemed to have been delivered (and if a maintenance period has been agreed after the lapse of this maintenance period).

#### **Article 20. Additions and omissions**

1. Settlement of additions and omissions takes place:
  - a. in the event of changes to the agreement or to the performance conditions; and/or
  - b. in the event of deviations from the amounts of the provisional sums; and/or
  - c. in the event of deviations from adjustable quantities; and/or
  - d. in the event that the settlement of additions or omissions has been agreed between the parties or appears from the actual performance.
 In addition, settlement takes place in the cases described in these general conditions.
2. Changes to the agreement or the performance conditions will be agreed in writing. The absence of a written agreement will not affect the claims of the contractor and the client to compensation for additions or omissions.
3. The contractor will expressly not be under any obligation to accept alterations, additions and/or work, all in the broadest sense of the word, that result in additions. If the client orders additions, the contractor may require written agreement to be reached on the additions prior to performance, including but not limited to the performance period, the term of delivery and the price.
4. The contractor will settle any omissions in the work in the final invoice.
5. If, in the final settlement of the work, the total amount of the omissions exceeds the total amount of the additions, the contractor will be entitled to an amount equal to 10% (in words: ten per cent) of the difference between these totals.
6. Provisional sums are amounts stated in the agreement, which are included in the price of the work and which are intended for:
  - a. the purchase of building materials; and/or
  - b. the purchase of building materials and the processing thereof; and/or
  - c. the performance of work which, on the date of the agreement, is not sufficiently precisely defined and which must be completed by the client.
 With regard to each provisional sum, the agreement will specify to which it relates.
7. The expenses to be charged to the provisional sums will be calculated on the basis of the prices charged to the contractor or the costs incurred by the contractor, respectively, to be increased by an allowance of 10% (in words: ten per cent).
8. If a provisional sum only relates to the purchase of building materials, the costs of processing these will be

included in the price of the work and will not be set off separately. These costs will, however, be set off against the provisional sum, against which the purchase of those building materials will be set off, in so far as, as a result of the interpretation given to the provisional sum, they exceed the costs which the contractor could reasonably have taken into account.

9. If an item on the provisional sum relates to the purchase of building materials and their processing, the processing costs will not be included in the price of the work and will be set off separately against the provisional sum.
10. If the agreement includes adjustable quantities and these quantities turn out to be too high or too low in order to realise the work, the extra or lower costs resulting from this deviation will be settled.

#### **Article 21. Cancellation**

The client is at all times entitled to terminate the agreement in whole or part. In that case the contractor will be entitled to the price of the work, increased by the costs it has incurred as a result of the non-completion and decreased by the costs saved by the termination. Instead of the above claim, the contractor will be entitled to charge 15% (in words: fifteen per cent) of the value of the non-performed part of the work.

#### **Article 22. Building materials**

1. Building materials made available or prescribed by the client are deemed to have been approved by the client.
2. If the client has stated that it wishes to retain the building materials produced by the work, they will be removed from the work site at the client's risk and expense.
3. If, after the conclusion of the agreement, the construction site proves to be contaminated or the building materials produced by the work prove to be contaminated, the client is liable for the consequences and costs arising therefrom.

#### **Article 23. Insurance**

1. The client will ensure the work from the start of the work up to and including the end of the maintenance period, if agreed, in any case up to and including the delivery, by means of an adequate Construction All Risks (CAR) insurance, against all material damage, loss or destruction, from any cause whatsoever, disregarding the provisions of Sections 7:951 and 7:952 Dutch Civil Code. The CAR insurance will at least provide cover for such an amount that the costs of clearing, repair or replacement of that which has been damaged or lost can be met. The insurance will be taken out with a (non-life) insurance company that is recognised in the Netherlands and has the relevant licences required under the Financial Supervision Act. This CAR insurance will be primary, in the sense that it takes precedence over other insurances.
2. The CAR policy will stipulate that, in the event of any damage, payment of the insurance proceeds will be made to whomever the goods belong to. The contractor's deductible will never exceed 1% (in words: one percent) (with a maximum of €2,500) of its contract sum per incident.
3. The client will stipulate that in the policy all parties involved in the performance of the work and their employees will be regarded as third with respect to each other.
4. The client will stipulate that the insurance conditions explicitly provide that the insurance company will not recover any loss it has paid from the contractor.
5. The client will upon first request provide the contractor with a copy of the policy and the conditions relating to the CAR insurance.

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