

**Article 1 – Applicability, scope and definitions**

1. These general terms and conditions apply to all (legal) acts of the contractor and prevail over the general terms and conditions of the client, unless the contractor has explicitly rejected their applicability. A reference by the client to its own purchasing terms and conditions or other terms and conditions is expressly rejected and does not lead to the application of those terms and conditions.
2. In addition to and as a supplement to paragraph 1, these general terms and conditions apply if the client has accepted their application in previous agreements with the contractor.
3. The client accepts the application of these general terms and conditions for all future legal acts with the contractor.
4. Deviations from these general terms and conditions are only legally valid if agreed upon in writing.
5. The following definitions apply to the following terms: agreement, work, contractor, client, materials, goods, delivery:
  - a) agreement: the agreement concerning the work between the client and the contractor and/or the supply of materials to which these general terms and conditions apply;
  - b) work: the entirety of design, installation or maintenance work – including the supply of goods and/or services – that the contractor is to perform under the agreement;
  - c) contractor: the natural or legal person to whom the work is assigned; who performs the work and/or supplies materials for the client based on an agreement concluded with the client;
  - d) client (Principal): the natural or legal person who assigns the work; who has entered into an agreement with the contractor in the context of the exercise of a profession or business concerning the performance of work and/or the supply of materials for the client;
  - e) materials: natural or artificially produced raw materials intended to be processed into the final product;
  - f) goods: final products;
  - g) delivery: the handover of materials and/or goods.

**Article 2 – Offers and conclusion of the agreement**

1. An agreement is only concluded after the contractor has confirmed, in writing, the written acceptance by the client of the offer made by the contractor.
2. Every offer is non-binding and specifies the price, the pricing method (fixed contract price or cost-plus) and the method of payment. The offer is exclusive of VAT and may be revoked by the contractor within the term stated. If no term is stated, the contractor may revoke the offer within eight working days.
3. The contractor is entitled to charge the costs associated with the offer, provided that the contractor has informed the client of these costs in writing in advance.
4. If neither party confirms the agreement in writing and the contractor, with the client's consent, begins executing the work, it is presumed that an agreement has been concluded between the parties in accordance with the most recent offer provided by the contractor to the client.
5. The documents attached to the offer (such as drawings, technical descriptions, etc.) are as accurate as possible but are not binding and remain the (intellectual) property of the contractor. They may not be copied, shared with third parties or made public in any other way without the contractor's consent. They must be returned to the contractor without delay at the contractor's first request.
6. If no agreement is concluded based on the offer documents, all these documents must be returned immediately to the contractor's address at the client's expense and risk upon the contractor's first request. Insofar as digital documents are concerned, they must all be deleted or destroyed immediately at the client's expense and risk at the contractor's first request.
7. The contractor is not obligated to start performing the work until all necessary information is in its possession and it has received the agreed (instalment) payment.  
In the event of conflicting provisions in the documents, the following applies:

- a. a newly written or signed document takes precedence over an older one;
  - b. a description takes precedence over a drawing;
  - c. a special arrangement takes precedence over a general one. Furthermore, a) takes precedence over b) and c), and b) takes precedence over c).
8. The client will treat the information from the offer documents and offers as confidential and may not use it for the client's own purposes or share it with third parties without written consent. The provisions of Article 4, paragraph 37 of these terms and conditions apply accordingly.

**Article 3 – Contractor's obligations**

1. The contractor is obliged to warn the client if the agreement contains such an obvious error that it would be contrary to the requirements of reasonableness and fairness for the contractor to proceed with the work without issuing a warning. The provision in Article 7:754, paragraph 2 of the Dutch Civil Code does not apply.
2. However, the contractor is not required to do more than a general review of the information, designs, drawings, calculations and specifications provided by the client. The contractor's inspection of goods to be supplied by the client will, where possible, be limited to a visual check.
3. The contractor will endeavour to carry out the work to the best of its ability.
4. The contractor will ensure that it is aware of the legal regulations and general technical and/or industrial standards relevant to the work.
5. The contractor will make every effort to ensure that the work complies with the agreement.
6. The contractor will repair any damage to the installation or any part thereof caused during and in connection with the execution of the work before delivery, unless the damage was not caused by the contractor or it is unreasonable for this damage to be its responsibility, without prejudice to the parties' liability under the agreement or the law.
7. The contractor will, at the client's request, transfer all rights from warranties provided by independent subcontractors concerning the installation or parts thereof.
8. At the client's request, the contractor will provide timely information about the ratio of labour to material costs in its offer and, where necessary, its payment behaviour in the context of the Dutch Chain Liability Act and VAT reverse charge regulations.
9. The contractor is obliged to treat all information provided by the client confidentially, as far as this information has been disclosed to the contractor as confidential.
10. If, in the context of its work, the contractor must supply materials or goods, including but not limited to software and hardware, where the supplier's general terms and conditions apply (which the client would reasonably also have had to accept if it had contracted directly with that supplier), the contractor's performance and liability towards the client in relation to that supply will be limited to what the contractor can enforce against that supplier based on the general terms and conditions applied by the supplier towards the contractor.
11. The contractor is obliged to cover its liability risks by taking out insurance, in accordance with the industry's applicable practices. To this end, the contractor will take out at least business liability insurance (AVB policy) with a minimum insured sum of one million euros per event, whereby a series of related events is considered one event.
12. The contractor will provide documentary proof of this insurance at the client's request.
13. The contractor will observe the applicable regulations when performing the work. Any financial consequences of changes in the regulations between the date of the offer and the completion of the work will be settled as additional work.
14. In the applicable cases, the contractor will instruct and train the client or persons designated by the client in good time regarding the operation and maintenance of the completed work. The scope, start date and duration of these obligations will be determined by the contractor within reason.
15. The contractor is not obliged to start the work until all the necessary information is in its possession and it has received the agreed (instalment) payment.

16. The contractor will inform the client of the time of delivery so that the client can insure the materials and/or goods if necessary.

**Article 4 – Client's obligations**

1. The client will ensure that the contractor has access in good time to all (technical) information, data, decisions and changes, as well as the necessary permits, exemptions, decisions and consents, required to enable the contractor to carry out the work in accordance with the agreement and/or for the use of the installation. The contractor will provide the necessary cooperation to the best of its ability in obtaining these. If the client fails to comply with this obligation, the contractor may terminate the agreement under Article 8, paragraph 4 and claim damages. The client is responsible for the accuracy and completeness of this information, data, decisions and changes.
2. The client indemnifies the contractor against claims from third parties in connection with the information, data, decisions, changes and goods referred to in paragraph 1.
3. The contractor is not liable for damages imposed by the government as a result of the absence of required permits.
4. The client will ensure that the contractor has access in good time to all goods provided by the client. The client is responsible if these goods are defective or unsuitable.
5. The client will ensure timely, free access to the site, building and location where the work is to be carried out, as well as clean, safe and healthy conditions, including suitable storage, sanitary and break facilities.
6. The repair of deformations to paved and/or unpaved surfaces and roads, without exception, resulting from the execution of the work, will be at the client's expense.
7. The client will ensure the good condition and unimpeded accessibility of the buildings/locations and installations or parts thereof around, under, in or above which the work is carried out. The client is responsible for circumstances that limit, prevent and/or hinder the execution of the work. The client is obliged to inform the contractor and its staff in a timely manner about working conditions, including warning of dangerous situations.
8. The client will ensure that at the locations where the work is carried out, the contractor can access the necessary utilities (such as electricity, drinking water, gas, compressed air, telecoms and/or sewage connection) in a timely, free and guaranteed manner.
9. The client is responsible for timely application to connect the installations to the relevant utility network or various public transmission networks. Connection costs are at the client's expense.
10. The client will provide connection facilities for gas, water, electricity, compressed air, steam and similar utilities required for the work and its testing. The costs of these and the necessary consumption are at the client's expense.
11. The client is responsible for the timely connection of the installation to public networks.
12. The client will provide timely information about the nature and content of the work of subcontractors and other third parties it engages, the expected time at which they will carry out their work, as well as the coordination thereof, so that the contractor can take this information into account in its offer. Changes to this information and/or the offer entitle the contractor to additional payment and/or an extension of the deadline in accordance with Article 10. The client is solely responsible for coordinating these works, unless otherwise agreed.
13. The client will ensure that work to be carried out by third parties, which is not part of the contractor's work, is performed in such a way and in such a timely manner that the execution of the agreed work is not delayed. Should a delay occur, the client will inform the contractor in writing as soon as possible.
14. If the start or progress of the work is delayed due to circumstances for which the client is responsible, as described in paragraph 13 and point 51, the client will compensate the contractor for any resulting damage.
15. The client is responsible for delays and/or costs resulting from the work of subcontractors that cannot be attributed to the contractor. Any damage caused to the installation by the work of subcontractors is at the client's expense.
16. The client is obliged to warn the contractor in writing within a reasonable period if it becomes aware or could reasonably have become aware of a shortcoming by the contractor.

17. Insofar as this is relevant in the context of the work, the client will provide the contractor with drawings of the location of cables, pipes and conduits free of charge before the start of the work.
18. The client will provide the necessary equipment, which must comply with the legal and safety requirements set by the Netherlands Labour Authority.
19. The client will ensure the timely availability of adequate and safe auxiliary tools for horizontal and vertical transportation of materials and equipment from the storage area to the work site, as well as the suitability of the access roads to the work site.
20. The client will ensure that access roads are constructed and maintained in such a way that materials can always be delivered in full loads within working distance of the site.
21. The client will ensure that the design and execution of the work are such that damage to persons, property and the environment is minimised.
22. The client is obliged to warn the contractor in writing within a reasonable period if it becomes aware or could reasonably have become aware of a shortcoming by the contractor.
23. The client is liable for any soil contamination, environmental pollutants and/or bacteria encountered during the execution of the work, such as asbestos or legionella. The client may instruct the contractor to remove the contamination, substances and/or bacteria through a variation under Article 12. Whether or not the contractor carries out this instruction, it is entitled to an extension of the deadline and/or reimbursement of costs under Article 10.
24. The client will provide free onsite facilities for the collection of waste, including chemical waste, generated by the contractor at the client's request during the work. The disposal costs for waste, including chemical waste, are at the client's expense unless otherwise agreed in writing before the start of the work.
25. The client is responsible for maintaining order and safety on the site. It is also responsible for the good condition of the materials to be processed and the equipment it provides.
26. The client is responsible for the goods it has prescribed or that must be sourced from a prescribed supplier, as well as for their non-delivery or late delivery.
27. The client is responsible for auxiliary personnel, such as subcontractors or suppliers it has prescribed. The contractor is not obliged to contract these independent auxiliary personnel if the client does not wish to accept the contract terms and conditions of these auxiliary personnel. If the prescribed auxiliary personnel do not perform, do not perform on time or do not perform satisfactorily, the contractor is entitled to an extension of the deadline and/or reimbursement of costs under Article 10.
28. Outside the contractor's working hours, the client is responsible for all goods, such as materials, equipment or tools, delivered to the site, regardless of ownership. The client will ensure that these goods are adequately insured, including against theft, sabotage and/or destruction.
29. If the client fails to meet the obligations described in the previous paragraphs of this article, the contractor has the right to suspend the execution of the agreement and charge the client for the costs resulting from the delay.
30. The client is responsible for delays and/or costs resulting from compliance with legal regulations and government decisions, as well as special regulations, such as technical and industrial standards, that are amended or come into force after the offer has been made.
31. If required for the execution of the agreement, the contractor has the right to have work carried out by third parties.
32. The client is responsible for delays and/or costs resulting from compliance with legal regulations and government decisions, as well as special regulations, such as technical and industrial standards, that are amended or come into force after the offer has been made.
33. The client will allow the contractor to place signs of its name and company or advertisements on fences and barriers used to enclose the building or places where the work is carried out, as well as elsewhere on the construction site.
34. The client is obliged to accept deliveries of materials, goods, components or tools on public roads, on its property or on its plot. The client bears the risk of damage to and loss of these deliveries.

35. The client is obliged to treat all (business) information and all information received from the contractor in connection with the agreement as confidential. The client is prohibited from using this information for its own or third-party use or disclosing it to third parties. If this obligation is violated, the client will forfeit an immediately payable penalty of €100,000.00, not subject to judicial moderation, without prejudice to the contractor's right to claim damages.
36. The client will pay the amounts owed to the contractor in accordance with the agreed payment schedule, even if the client has the right to claim damages under Article 20.
37. The agreed execution period of the agreement is not a strict deadline. If the execution period is exceeded, the client must give the contractor the opportunity to complete the work within a reasonable period.
38. If the start or progress of the work is delayed due to circumstances referred to in Article 5, paragraph 2, the client will compensate the contractor for the associated damages and costs.
39. The client bears the risk of damage caused by defects or unsuitability of items originating from or prescribed by the client or sourced from a prescribed supplier, and for the failure or delay in the delivery of such items.
40. The client bears the risk of damage caused by errors or defects in the drawings, calculations, constructions, specifications and execution instructions it provides.
41. The client bears the risk of inadequate performance of the agreement caused by the auxiliary personnel it has prescribed.
42. The client bears the risk of damage caused by unlawful acts of auxiliary contractors or suppliers and their auxiliary personnel.
43. The client bears the risk for the design from the contractor, provided it has been approved by the client.
44. The client indemnifies the contractor against all claims for damages that remain the client's responsibility under these terms and conditions, including damages resulting from infringements of intellectual and industrial property rights.
45. WR-A 1/2/3 worksite, grounds.
46. If the worksite or the grounds are designated as archaeological sites, the client will provide the required permits in writing to the contractor upon the price request.
47. If the permit requires provisions to protect and safeguard elements of archaeological value, the client will inform the contractor of these provisions in writing. The contractor will include the associated costs in its offer.
48. If the client makes these provisions known in writing after the assignment, the contractor will carry out these provisions as additional work following written instruction from the client.
49. If the contractor must interrupt, suspend or cease its work due to the absence of required permits, as ordered by the government, the contractor will charge the client for all resulting damage, without exception.
50. The client is not entitled to assign the auxiliary personnel engaged by the contractor to carry out work activities unrelated to the work.
51. The client is obliged to enable the contractor to carry out the work during normal working hours and under conditions that comply with legal safety requirements and other government regulations.
52. The following paragraphs all relate to the execution of work by VGB, which is not applicable here and can therefore be disregarded.
53. Before the start, the ground at the worksite must be at least 70 cm deep. Pipes, cables and other obstacles, without exception, must be removed in advance by third parties to avoid delays in the execution of the work.
54. Before the start, the ground at the worksite must be at least 70 cm deep. Pipes, cables and other obstacles, without exception, must be removed in advance by third parties to avoid delays in the execution of the work.
55. Work not provided for in the agreement.
- Article 5 – Client's insurance**
1. The client is obliged to take out and maintain standard CAR insurance or equivalent customary insurance in which the contractor (including subcontractors and auxiliary personnel) is included as a co-insured
- party, if the contractor's work serves the exercise of the client's business, unless otherwise agreed in writing.
2. In cases where products and installations, which consist partly of goods developed and/or supplied by the contractor, are exported to the USA, Canada or areas where the law of these countries applies, the client is obliged to inform the contractor of the intended export in a timely manner. In such cases, the client must obtain and maintain sufficient and adequate liability insurance to the contractor's satisfaction.
3. The client will ensure that the contractor receives written proof of the existence, payment and content of the insurance referred to in paragraphs 1 and 2, as well as the insurance referred to in Article 4, paragraph 28, as soon as possible.
- Article 6 – Price, price changes and payment**
1. The agreed prices and rates are in euros, excluding VAT. Prices and rates may be increased, unless a fixed price has been agreed, as a result of changes in exchange rates, purchase prices, freight rates, import or export duties, excise duties, levies, taxes, raw materials or semi-finished products or wages. The client will reimburse the contractor for any VAT due in connection with the agreement.
2. The prices referred to in paragraph 1 of this article, unless explicitly stated otherwise, do not include: equipment costs, travel and accommodation costs or the costs of obtaining permits.
3. All prices and rates are based on a normal working week from Monday to Friday. Any work performed outside normal working hours per calendar day will be charged at the rates and surcharges set out in the agreement, based on the contractor's normal working hours. Any waiting time or idle time for the contractor's personnel or equipment attributable to the client will be charged based on the rates specified in the agreement.
4. The contractor is entitled to pass on interim price changes from the offer date, unless a fixed price has been agreed.
5. Price changes for wages, social security contributions, prices, rents and freight charges will be calculated based on the material index of the RWU '91 (risk regulation for residential and non-residential construction) and the wage index of Statistics Netherlands.
6. The contractor will inform the client in that case of the ratio of wages to materials used in the offer.
7. Invoicing is as follows:
- a) 80% upon delivery of materials and/or goods
- at the contractor's business address;
  - at the client's private premises, property or plot;
  - in accordance with Incoterms EXW 2020, from Bunnik (Article 28, paragraph 1).
- b) 10% based on the proportion of work completed;
- c) 10% upon the first completion of the work.
8. The parties agree on a payment schedule and payment term for the agreed contract sum as follows: payment of an invoice referred to under paragraph 7 a) will be made immediately upon receipt, while payment of an invoice referred to under paragraphs 7 b) and 7 c) will be made within fourteen days of the invoice date.
9. After receiving the invoice, the client must make payment without deductions or set-offs within fourteen calendar days or earlier as specified in paragraph 8. After the expiration of this term, the client will be in default and all claims of the contractor against the client will become immediately payable.
10. From the moment of default, as referred to in paragraph 1, the client owes interest on the outstanding amount. This interest is equal to the statutory interest rate plus 2% per annum.
11. If the client fails to pay an invoice or instalment, the contractor is entitled, without prejudice to its other rights, to suspend the work until the client has fulfilled all its due obligations.
12. Once the client is in default, the contractor is authorised to recover the amount due without further notice. All associated extrajudicial costs will be borne by the client, unless the contractor opts to fix these costs at 15% of the amount to be claimed.
13. The contractor is entitled to invoice for work and/or deliveries in instalments.
14. The client must pay without any discount or set-off with any claim, disputed or otherwise, against the contractor.
15. The client is not entitled to make payments for or on behalf of the contractor to the contractor's independent auxiliary personnel.
16. Each payment will be applied first to all due interest and costs and then to the oldest outstanding invoices, regardless of whether the client specifies that the payment relates to a later invoice.
17. If the client makes payment in instalments for contracted work with an agreed contract sum, payment will be made within fourteen days of the invoice date and after the client has received the invoice. The invoice will be sent in proportion to the progress (cost-plus) or duration of the work, without the right to discount or set-off, unless otherwise agreed.
18. If the client makes payment in instalments for cost-plus work, payment will be made within fourteen days of the invoice date and after the client has received the invoice.
19. Payment for an early start, deviating from the agreed start date of the work, will be made within fourteen days of the invoice date and after the client has received the invoice.
20. In the event of liquidation, bankruptcy or suspension of payments by the client, or if the Wsnp (Natural Persons Debt Restructuring Act) applies to the client, or in the event of the client's death (if the client is a natural person), or if the client is in financial difficulty and/or converts its business into another legal form or transfers it to a third party, or relocates its place of business and/or residence abroad, all of the client's obligations will become immediately payable.
- Article 7 – Early commissioning**
1. If the client wishes to commission the installation or parts thereof before completion, the parties will consider this a variation and follow Article 12 (variations). In any case, the payment terms will be adjusted so that the client pays the contractor at the time of early commissioning for what would be due upon delivery of the installation or the relevant parts. Any other payment obligations will be adjusted proportionately over time. The client is only entitled to early commissioning if both of the following conditions are met:
- a. acceptance by the client of the contractor's offer as referred to in Article 12, paragraph 3;
- b. the client has approved and signed off the work related to the installation or parts thereof that it wishes to commission early as complete.
2. If the client fails to follow the procedure referred to in Article 12 and the previous paragraph and/or fails to approve and sign off the work as complete but proceeds with the commissioning of the installation or parts thereof, the contractor will have the right, as of the date of (partial) early commissioning, to demand immediate payment of the entire price or contract sum, which will become due immediately. The installation or work will be deemed to be fully approved and complete. If (partial) early commissioning results in damage and/or disruption and/or delay to the contractor's work, the client will bear the financial and time consequences, with the contractor's statement being presumed reasonable and correct, unless proven otherwise by the client.
3. The early commissioning of (a part of) the installation/work by the client will be considered as the date of (partial) completion as referred to in Article 20.
4. The agreed warranty and/or maintenance period, as well as any limitation and expiry periods concerning the commissioned installation/work, will begin upon early commissioning of (a part of) the installation/work by the client.
5. Damage caused during or as a result of early commissioning as referred to in paragraph 1, for example to the installation and/or work, will be borne by the client. Any delay caused during or by early commissioning, as referred to in this article, will be borne by the client and entitles the contractor to an extension of the deadline and compensation for delay damages.
- Article 8 – Suspension, dissolution and termination**
1. The client is entitled to suspend the work. The client must provide written justification for this and immediately consult with the contractor about the consequences.
2. If, as a result of the suspension, the contractor has to take appropriate measures or make provisions, it is entitled to an extension of the deadline and/or compensation for costs under Article 10.
3. If the work or any part thereof is suspended or delayed and this is not attributable to the contractor, the client is obliged to pay the contractor for all work performed, calculated according to the status of the work, as well as all reasonable costs incurred and yet to be incurred, calculated from the moment of suspension or delay.
4. If the work is suspended or delayed for more than two months, the contractor is entitled to terminate the work in an incomplete state.
5. If the client has applied for or been granted a suspension of payments, has been declared bankrupt or an application has been filed to this effect, or if it is in default of fulfilling the agreement, or if it is foreseeable to the contractor that it will fail in this respect, the contractor is entitled to dissolve the agreement. Termination and suspension will take place by means of a written statement without the contractor being liable for any compensation or warranty.
6. The client is entitled to terminate the agreement, in whole or in part, at any time.
7. In the cases referred to in paragraphs 4 to 6, the client is obliged to pay the agreed fixed price set out in the agreement, increased by the costs incurred by the contractor as a result of non-completion, and reduced by any savings the client can prove the contractor made as a result of the termination. If the price was based on the actual costs to be incurred by the contractor, the price owed by the client will be calculated on the basis of the costs incurred, the work performed and the profit the contractor would have made if the work had been fully completed.
8. The client is also obliged to compensate the contractor for any damage suffered, without prejudice to the contractor's obligation to limit this damage as much as possible, unless the damage is the result of a shortcoming that cannot be attributed to the client.
9. All claims that the contractor may have or obtain against the client in these cases will become immediately and fully due and payable.
- Article 9 – Deadlines**
1. The contractor is not obliged to commence work until all necessary information, data, goods and/or (proof of) insurance to be provided by the client are in the contractor's possession in a timely manner and it has received the agreed instalment payment. If the applicable deadlines are exceeded, the contractor is entitled to additional payment and/or an extension of the deadline under Article 10. The contractor is authorised to start earlier and/or deliver earlier unless otherwise stated in the agreement.
2. Unless otherwise expressly agreed, the deadlines applicable to the contractor will be observed as much as possible. Merely exceeding a stated deadline does not put the contractor in default. If a deadline is likely to be exceeded, the contractor and client will consult as soon as possible.
- Article 10 – Extension of deadlines and/or compensation for costs**
1. In addition to Article 7:753 paragraph 1 of the Dutch Civil Code, the contractor has the right to claim compensation for costs without the intervention of a court.
2. In addition to paragraph 1 and Article 12, the contractor is entitled to an extension of deadlines and/or compensation for costs in the following cases:
- a. if these terms and conditions expressly provide for such and on the condition that the delay and/or costs are due to a circumstance that cannot be attributed to the contractor, or;
- b. if the delay or costs arise from a circumstance for which the client is responsible, and the contractor was not required to issue a warning in view of the obligation mentioned in Article 3, paragraph 1, or;
- c. if an unforeseen circumstance arises of such a nature that the client, according to standards of reasonableness and fairness, cannot expect the agreement to remain unchanged.
3. If the contractor believes it is entitled to an extension of deadlines and/or compensation for costs, it will notify the client in writing with justification. The contractor will include all direct and indirect costs as well as a reasonable markup for general expenses, profit and risk. The contractor will also state the consequences for the schedule.
- Article 11 – Inspection, acceptance and delivery**
1. The client is authorised to check whether the work complies with the agreement through inspections, tests or examinations.

2. Inspections by or on behalf of the client are at the client's expense and risk. The contractor will provide the necessary cooperation within reasonable limits if an inspection plan has been agreed upon and if it is provided for in the plan.
3. The client must interfere with the work as little as possible during inspections. The client is responsible for any delays and/or costs caused by the inspection that cannot be attributed to the contractor. Any damage to the installation caused by the inspection is at the client's expense.
4. Once the contractor has stated in writing that the work is ready for acceptance and the client does not inspect it within the specified period, the work is deemed to have been tacitly accepted.
5. Minor defects that can be remedied before the next payment instalment must not be grounds for the refusal of acceptance, provided they do not hinder the commissioning of the installation and/or the work.
6. After (tacit) acceptance, the work is considered delivered. The contractor is entitled to divide the delivery into several partial deliveries.
7. If the work is tacitly accepted by the client, the date of acceptance is the day of the notification referred to in paragraph 4.
8. At the client's request, the acceptance of the work may also occur without the notification referred to in paragraph 4. In this case, the client will notify the contractor in writing that the work is considered accepted. The date of sending this notice will be considered the date of acceptance.
9. Contrary to Article 7:757a of the Dutch Civil Code, the contractor is not required to provide a delivery dossier, unless otherwise agreed by the parties in the agreement. If so, the contractor will make reasonable efforts to provide the delivery dossier at the time of the notification referred to in paragraph 4.

**Article 12 – Variations: settlement of additional and reduced work**

1. The client is authorised to assign variations to the agreement and the work to the contractor.
2. The contractor is not obliged to carry out an assigned variation if the variation:
  - a. has not been assigned in writing, or;
  - b. would cause an unacceptable disruption to the work, or;
  - c. exceeds the contractor's knowledge and/or skills and/or capacities, or;
  - d. is not in the contractor's interest, or;
  - e. if the parties do not agree on the financial implications and the consequences for the schedule.
3. If the contractor is willing to carry out the variation, it will send the client a written offer containing the following details:
  - a. the balance, formed by all direct and indirect costs, profit and risk related to the variation, reduced by any savings resulting from the execution of the variation, and;
  - b. adjustments to the work, schedules and other related documents, and;
  - c. adjustments to the payment schedule or payment conditions.
4. The contractor is entitled to compensation for the costs related to the offer referred to in paragraph 3, regardless of whether the parties agree on the offer.
5. The contractor is authorised to submit variation proposals to the client if deemed necessary, provided that the work will comply with the agreement.
6. The client may reject or accept the variation proposals referred to in paragraph 5 if there is a reasonable ground for doing so. In the latter case, the parties will follow this article.
7. If delays arise in connection with the variations due to circumstances that cannot be attributed to the contractor, the contractor is entitled to an extension of the deadlines and/or compensation for costs under Article 10.
8. The absence of a written order concerning the variation does not affect the contractor's right to payment.

9. Variations are settled in the following cases:
  - a. In the event of changes in the specifications, in the work or in the conditions of the work's execution;
  - b. In the event of deviations exceeding 15% of the estimated quantities and billable items and deviations of more than 15% from budgeted and/or estimated quantities;
  - c. In the situations provided for in these terms and conditions.
10. Settlement of additional work occurs in full upon issuance of the final invoice. If no instalment payment has been agreed, then it is settled upon completion of the work.
11. Settlement of reduced work occurs in full upon issuance of the final invoice.
12. If the total amount of reduced work exceeds the amount of additional work, the contractor is entitled to an amount equal to 15% of the difference between the two totals.
13. Additional and/or reduced work is only executed after written instruction by the client.
14. The absence of a written order for additional work does not affect the contractor's right to settlement.
15. Each of the totals, or the balance of additional and/or reduced work as a result of changes in the specifications, changes in the work or the conditions of the work's execution, must not exceed 15% of the contract sum.
16. The contractor is entitled to compensation for the costs related to the offer referred to in paragraph 3, regardless of whether the parties agree on the offer.
17. If delays arise in connection with the variations due to circumstances that cannot be attributed to the contractor, the contractor is entitled to an extension of the deadlines and/or compensation for costs under Article 10. The absence of a written order concerning the variation does not affect the contractor's right to payment.

**Article 13 – Cost-increasing circumstances**

1. When cost-increasing circumstances arise, the contractor must notify the client as soon as possible in writing.
2. Cost-increasing circumstances not attributable to the contractor will be settled as additional work.

**Article 14 – Force majeure**

1. This also includes the failure of the contractor's suppliers to meet their obligations.
2. Force majeure includes circumstances that temporarily or permanently prevent the performance of the agreement and that cannot reasonably be attributed to the contractor.
3. Force majeure also includes circumstances that the contractor could not reasonably have taken into account at the time of entering into the agreement and that were unknown to it, and which cannot reasonably be attributed to the contractor. This includes, but is not limited to: war, the threat of war, civil war and unrest, terrorism, severe storms or other extreme weather conditions, fire and other disturbances, strikes in other companies, wildcat or organised strikes and/or work stoppages at the contractor's company or those of third parties, illness, a general shortage of required raw materials, loss of parts to be processed, import or trade bans, unforeseen delays at suppliers, general transport problems and government measures.
4. The contractor is also entitled to invoke force majeure if the circumstance causing the force majeure occurs after the contractor should have fulfilled its obligation.
5. In the event of force majeure, the contractor has the right to suspend its obligations. If the impediment to performance due to force majeure lasts longer than a month, both parties are entitled to terminate the agreement without any obligation to pay damages.
6. If, at the time force majeure occurs, the contractor has already partially fulfilled its obligations, the contractor is entitled to a proportionate part of the agreed price based on the work already performed and the costs incurred. This does not apply if the part of the agreement has no independent value.
7. In the event of force majeure, the contractor is entitled, without judicial intervention, to either suspend the execution of the work for up to six months or terminate the work in its incomplete state without being liable

for any damages. All costs incurred by the contractor up to that point will become immediately payable and/or the contractor will be entitled to a proportionate part of the agreed price based on the work already performed and the costs incurred.

**Article 15 – Liability and insurance**

1. The client may only terminate the agreement if the contractor has failed to fulfil the agreement and after the contractor has been given notice of default and provided with a reasonable opportunity to fulfil the agreement.
2. If certain parts of the agreement are performed by third parties, the contractor is not liable for those parts or for the actions of those third parties, provided such actions are not carried out under the contractor's supervision.
3. The contractor must be given the opportunity to remedy any defects for which it is liable or to limit or eliminate the resulting damage.
4. The contractor is not liable for indirect damage suffered by the client or third parties, including consequential damage, delays and/or business losses.
5. The contractor is not liable for damage caused by intent or gross negligence of its non-supervisory subordinates.
6. The contractor is not liable for damage resulting from exceeding the completion deadline.
7. The client indemnifies the contractor against all successful claims by third parties arising from the work performed and/or goods supplied by the contractor as a result of which that third party may have suffered damage, regardless of the cause or timing of the damage.
8. If the contractor is insured for the relevant damage, its liability is limited to the amount paid out by the insurer to the contractor in that case, plus the deductible.
9. If the client has insured any risks related to the agreement, it is obliged to indemnify the contractor against those risks.
10. Any claim for damages by the client expires if the claim is not reported in writing to the contractor within one month after the damage or defect is discovered or should reasonably have been discovered, and if it is not filed in court within one year from that time.
11. The contractor is not liable for damage, costs and fines resulting from the contractor relying on data provided by the client that was not supplied in a timely, accurate and/or complete manner. This particularly, but not exclusively, concerns the presence and nature of substances hazardous to health and the environment.
12. The client bears the risk of damage caused by defects in materials and goods provided by it or used at its request, unless the contractor has violated its duty to warn under Articles 7:760 and 7:754 of the Dutch Civil Code.
13. The client bears the risk of damage to all components, materials, goods or tools located on the worksite.

**Article 16 – Contractor's liability**

**Before completion**

1. The contractor will repair, at its own expense, any damage to the work that occurs before its completion, unless this damage was not caused by the contractor or it is otherwise unreasonable for such damage to be its responsibility, without prejudice to the provisions of Article 4.35.
2. The contractor is liable for damage suffered by the client to persons and property other than the work, to the extent that this damage was caused by the performance of the work and is the result of the contractor's fault or that of the auxiliary personnel engaged by the contractor, provided and to the extent that this liability is covered by its insurance.
3. The preceding two paragraphs apply correspondingly if the contractor performs work to fulfil its warranty obligations under Article 18.

**After completion**

4. After completion, the contractor is only liable for defects in the work in relation to fulfilling its warranty obligations as described in Article 27, points 1 to 5.

5. The contractor is only liable for damage suffered by the client as a result of defects referred to in Article 27, point 1, provided and to the extent that such liability is covered by its insurance.

**Article 17 – Extent of compensation for damages**

1. If the contractor is required to compensate the client for damages under Article 27, points 1 and 4, the contractor will not be required to pay more than a maximum of twice the contract sum.
2. The contractor is never liable for damages other than those referred to in the preceding articles that the client may suffer.
3. The limitations set forth in the preceding articles do not apply if the damage results from intent or gross negligence on the part of the contractor or its senior subordinates.
4. Any claim for compensation or repair of damage, whether incurred before or after completion, expires if it is not made no later than the day of completion or the day on which the warranty period expires.
5. Legal action for compensation or repair by the client against the contractor under these terms and conditions expires one year after the client has protested regarding the matter.

**Article 18 – Completion and repair of defects**

1. The agreed delivery time will be observed as much as possible, but it will never be regarded as a strict deadline. If this delivery time is exceeded, the contractor will consult with the client.
2. The client has the right to inspect the work both in the interim and upon completion. If the client rejects the work (in whole or in part), it must notify the contractor in writing as soon as possible.
3. If the contractor has indicated in writing that the work is complete, tested and ready for operation, and the client does not inspect the work within eight working days of this notification and either accept it (with or without reservation) or refuse it, specifying the defects, the client will be deemed to have tacitly accepted the work. After acceptance, the work is considered delivered.
4. After delivery, the work is at the client's risk. Therefore, the client remains liable for the agreed price, regardless of the destruction or deterioration of the work due to a cause that cannot be attributed to the contractor.
5. The contractor is released from liability for defects that the client reasonably should have discovered at the time of delivery but did not report.
6. If defects in the work occur after delivery for which the contractor is liable, the client must, unless the circumstances do not allow, give the contractor the opportunity to rectify the defects within a reasonable period, without prejudice to the contractor's liability for damages due to defective completion.
7. Minor defects will not prevent the acceptance of the work at the time of the initial delivery.
8. The client may require the contractor to rectify defects within a reasonable period, unless the cost of repair would be disproportionate to the client's interest in repair rather than compensation.
9. Final delivery occurs after any minor defects have been repaired by the contractor.
10. The agreed delivery time will be observed as much as possible, but it will never be regarded as a strict deadline. If this delivery time is exceeded, the contractor will consult with the client.
11. The work is considered delivered when the client puts it into use early, on the understanding that (early) use of part of the work will be deemed delivery of that part.
12. Minor defects that can be remedied within the warranty period and do not affect the functioning of the work will not prevent delivery.
13. Delivery releases the contractor or supplier from all liability for defects that the client reasonably should have discovered at the time of delivery.
14. As a result of delivery, the risk for the work transfers from the contractor to the client.

**Article 19 – Default by the client**

1. If the client fails to cooperate with the inspection or acceptance of the work or does not make payment in a timely manner, the contractor is

entitled to interest at the statutory rate in accordance with Article 6:119a of the Dutch Civil Code from the day cooperation should have been provided or payment should have been made. In this case, the contractor is also entitled to suspend the work.

2. If cooperation or payment is not provided within one month of the day on which it should have taken place, the contractor is entitled to interest at the statutory rate plus two percentage points from the day this month has passed, without further notice from the contractor. In this case, the contractor is also entitled to dissolve the agreement under Article 8.
3. If the contractor suspects that the client will not fulfil its obligations, the contractor may require the client to provide adequate security, such as a bank guarantee, at the client's expense and risk. If the client fails to provide the required security, the contractor is entitled to suspend the work or dissolve the agreement under Article 8.
4. If the client does not or will not fulfil its obligation to take delivery of goods at the agreed place and time, the contractor is entitled to store these goods at the client's expense and risk or to sell them in a suitable manner and recover the proceeds owed to it, provided it has given the client five working days' notice to take delivery of the goods. The contractor may settle any proceeds owed to the client by set-off, even during the client's suspension of payments or bankruptcy.
5. All actual costs incurred by the contractor to recover payment of outstanding invoices, including judicial and extrajudicial costs, will be borne by the client, unless the contractor opts to fix these costs at a flat rate of 15% of the amount to be recovered.

#### **Article 20 – Liability and warranty**

1. After delivery, the contractor is no longer liable for defects, unless:
  - a. such defects are attributable to the contractor, and in addition;
  - b. the client did not notice these defects before delivery, and in addition;
  - c. the client reasonably could not have discovered these defects before or at the time of delivery.
2. If the contractor is liable under paragraph 1 and/or the agreement, it is only obliged to compensate the client for direct material damage, as far as such damage could not have been mitigated by the client and cannot be remedied by repair as referred to in paragraph 5.
3. Direct material damage does not include any other forms of consequential damage, such as – but not limited to – loss of production, business losses (such as loss of revenue or profit), depreciation or loss of products, nor amounts that would have been included in the cost of execution if the work had been properly performed from the outset.
4. Without prejudice to the provisions of this article, the contractor undertakes to repair defects for which it is liable as reasonably as possible during the period referred to in paragraph 9. If the cost of repair is disproportionate to the client's interest in repair, or if the installations are not located in the Netherlands, the client's right to repair will be replaced by a compensation payment from the contractor as referred to in paragraph 2. Parts replaced by the contractor become the contractor's property.
5. The contractor is only liable for compensation of damage other than that mentioned in this article if the client proves that this damage was caused by intent or gross negligence of the contractor.
6. Without prejudice to the provisions of this article, the contractor is only liable for damages not covered by the insurance referred to in Article 5, paragraph 1, if the work is performed as part of the client's professional or business activities. The contractor is only liable for damages relating to products and installations exported by the client to the USA or Canada, or areas where the law of these countries applies, if such damages are not covered by the insurance referred to in Article 4, paragraph 29, and Article 5, paragraph 2.
7. If and insofar as the client has insured any risk associated with the agreement, it is obliged to claim under that insurance and indemnify the contractor against claims from the insurer.
8. The amount of damage to be compensated by the contractor is limited to a maximum of the amount of the price stated in the agreement, or if no price was determined at the time of concluding the agreement, as in the case of cost-plus work, the estimated price. In maintenance contracts lasting more than one year, the price will be the total annual fees.
9. Under no circumstances will compensation exceed the total of the contractor's insurance deductible and the amount paid by the contractor's insurer, up to a maximum of €1,000,000.

10. Unless otherwise agreed, all liability of the contractor and any legal claim by the client arising from any breach by the contractor expires one year after delivery, termination in an incomplete state, or the termination of the agreement by dissolution or cancellation.
11. Any legal claim based on a defect is not admissible if the client does not notify the contractor in writing with proper grounds as soon as possible after discovering the defect or when it reasonably should have discovered it.
12. The right to claim based on a defect expires one month after the reasonable period specified in a written and substantiated notice of default has passed.
13. The client indemnifies the contractor against all third-party claims for (product) liability arising from a defect in a product or installation supplied by the client to a third party, which includes goods developed and/or supplied by the contractor, unless the client proves that the damage was caused by those goods, without prejudice to the provisions of paragraph 8 of this article.
14. Unless otherwise provided by law or agreement, the contractor is in no way liable if its breach is the result of:
  - labour disputes at third parties or within its own staff;
  - the performance of the contractor's supplier as referred to in Article 3, paragraph 10;
  - transport problems;
  - supply problems with materials, goods and/or raw materials;
  - epidemics;
  - major unrest;
  - fire and loss of parts to be processed;
  - measures by any domestic, foreign or international government, such as import or trade bans;
  - violent or armed actions;
  - failures in energy supplies, communication connections, or equipment or software of the contractor or third parties. If a circumstance as referred to in this paragraph occurs, the contractor will take the measures that can reasonably be expected of it to limit the adverse consequences for the client.
  - damage caused during the execution of the work to cables, pipelines, without exception, and any consequential damage arising therefrom.
15. The client indemnifies the contractor against third-party claims for compensation for damage, insofar as such damage remains the client's responsibility under these general terms and conditions.

#### **Article 21 – Payment and interest**

1. Payment must be made within fourteen days of the invoice date, or earlier if stipulated in Article 6, paragraph 8, after the client has received the invoice. If the payment term is exceeded, the client is in default, and all claims of the contractor against the client become immediately due.
2. From the moment of default, as referred to in paragraph 1, the client owes interest on the outstanding amount. This interest is equal to the statutory interest rate plus 2% per annum.
3. The contractor is entitled to invoice for work and/or deliveries in instalments.
4. If the client fails to pay an invoice or instalment, the contractor is entitled, without prejudice to its other rights, to suspend the work until the client has fulfilled all its due obligations.
5. Once the client is in default, the contractor is authorised to recover the amount due without further notice. All extrajudicial costs incurred will be borne by the client, unless the contractor opts to fix these costs at a flat rate of 15% of the amount to be claimed.
6. The client must pay without any discount or set-off with any claim, disputed or otherwise, against the contractor.

7. In the event of liquidation, bankruptcy or suspension of payments by the client, or if the Wvnp (Natural Persons Debt Restructuring Act) applies to the client, or in the event of the client's death (if the client is a natural person), or if the client is in financial difficulty and/or converts its business into another legal form or transfers it to a third party, or relocates its place of business and/or residence abroad, all of the client's obligations will become immediately payable.
8. Each payment will be applied first to all due interest and costs and then to the oldest outstanding invoices, regardless of whether the client specifies that the payment relates to a later invoice.
9. If the client makes payment in instalments for contracted work with an agreed contract sum, payment will be made within fourteen days of the invoice date and after the client has received the invoice. The invoice is issued proportionately with the progress (cost-plus) or duration of the work, without the right to discount or set-off, unless otherwise agreed.
10. If the client makes payment in instalments for cost-plus work, payment will be made within fourteen days of the invoice date and after the client has received the invoice.
11. Payment for the start of the work will be made within fourteen days of the invoice date and after the client has received the invoice.
12. Invoicing and payments will be conducted as specified in Article 6, paragraphs 7, 8 and 9.

#### **Article 22 – Security deposit**

1. The contractor is entitled to require the client to provide security for the fulfilment of its payment obligations.
2. Unless otherwise agreed in writing, the security deposit will be 5% of the contract sum. The security must be provided in the form of an unconditional and irrevocable bank guarantee issued by a bank institution acceptable to the contractor. The costs of the bank guarantee will be borne by the supplier.
3. The security deposit remains in place until the moment of completion or acceptance by the client, or until any identified defects have been rectified and acceptance can still take place.
4. If the client refuses to provide security or fails to do so, the contractor has the right to suspend its work or dissolve the agreement and claim compensation for damages.

#### **Article 23 – Dissolution**

1. Without prejudice to any other rights, the contractor is entitled, without judicial intervention and without notice of default, to suspend the work or terminate the work in an incomplete state if the client:
  - a. has applied for or been granted a suspension of payments;
  - b. has been declared bankrupt or if an application for bankruptcy has been filed;
  - c. has defaulted on an obligation, or if it is foreseeable to the contractor that it will default;
  - d. undergoes a change of control in the client's business;
  - e. is placed under guardianship or administration.
2. Termination and suspension are effected by written notice, without the contractor being liable for any compensation or warranty.
3. All claims that the contractor may have or obtain against the client in these cases become immediately and fully payable.

#### **Article 24 – Termination of the agreement**

1. The client is entitled to terminate the agreement, in whole or in part, at any time.
2. Upon termination by the client, it must pay the agreed price for the entire work, reduced by the savings resulting from the termination, upon delivery by the contractor of the completed work. If the price was based on the actual costs to be incurred by the contractor, the client's payment will be calculated based on the costs incurred, the work performed and the profit the contractor would have made on the entire project, with profit set at 15%.
3. If the execution of the work becomes impossible due to a cause not attributable to the contractor or beyond its control, the contractor is entitled to terminate the agreement and charge the client for the costs incurred.

#### **Article 25 – Intellectual property and copyright**

1. Intellectual and industrial property rights to all goods, software, data and (technical) information supplied to the client remain with the contractor. Only the contractor has the right to publish, realise and reproduce these goods, data and information, while the client is granted the exclusive right to use them.
2. The documents provided by the contractor to the client, such as designs, drawings, technical descriptions or specifications, become the property of the client and may be used by it in compliance with the rights arising from intellectual and industrial property laws, once the client has fulfilled its financial obligations to the contractor.
3. The client is not permitted to replicate the installation, in whole or in part, according to the contractor's design, without the contractor's express written consent; this is without prejudice to the provisions of paragraphs 5 and 6. The contractor may impose conditions on such consent, including the payment of a fee. The provisions of this paragraph apply accordingly to goods manufactured according to the contractor's design.
4. The client is only authorised to have a third party realise the installation according to the contractor's design without the contractor's involvement and approval if the agreement has been dissolved due to a shortcoming attributable to the contractor. In this case, the contractor is not liable for defects attributable to the installation by or on behalf of the client.
5. The client's right to use the software developed and delivered by the contractor is non-exclusive. The client may only use this software in its own business or organisation and only for the technical installation for which the right of use was granted. The right of use may apply to multiple installations if specified in the agreement.
6. The right of use is non-transferable. The client is prohibited from making the software and the media on which it is stored available to any third party or allowing a third party to use it. The client is also prohibited from reproducing the software or making copies of it. The client will not modify the software except to correct errors. The source code of the software and the technical information generated during its development will not be made available to the client, unless otherwise agreed.
7. The contractor is entitled to apply for a patent, in its name and at its own expense, for inventions made during and through the execution of the agreement.
8. If the contractor obtains a patent as referred to in paragraph 7, it will grant the client a non-transferable right of use for that invention. When applying this right of use, the client must seek the contractor's approval, which may only be refused if the contractor can demonstrate conflicting interests with its business.
9. All originals of drawings, sketches, specifications, budgets, estimates, reports and other documents created by the contractor in the performance of the agreement remain its property, regardless of whether they have been provided to the client or third parties.
10. To the exclusion of anyone else, the contractor has the exclusive right to realise, publish and reproduce its designs, sketches, photos and all other images of its design as defined in copyright law or the Benelux Design and Model Law, regardless of whether they have been provided to the client or third parties.
11. The client is not permitted to replicate the execution of a design or part thereof by the contractor without the contractor's express consent.

#### **Article 26 – Retention of title and right of reclamation**

1. Until full payment of all claims arising from the agreement, including interest and costs, the goods delivered by the contractor remain its exclusive property, as long as the client has not fulfilled its payment obligations under this agreement, including anything the client may owe due to defaulting on its obligations.
2. Until full payment is made, the client is not authorised to pledge or transfer the goods to third parties. This prohibition has proprietary effect. If third parties wish to establish any rights over the delivered goods, the client is obliged to inform the contractor as soon as possible. The client is required to keep and/or make the goods subject to the contractor's retention of title identifiable and separate from other goods at the client's location.
3. If the client fails to meet its obligations or if there are justified concerns that it will fail to do so, the contractor is entitled to reclaim the delivered materials and/or goods from the client or third parties holding them on behalf of the client. The client is obliged to cooperate with this fully upon penalty of a fine of 10% of the total contract sum or 10% of the amounts charged to the client in the previous year for each day the client remains in default.

4. If the client fails to meet its obligations or if there are justified concerns that it will fail to do so, the contractor has the right of reclamation:
  - a. The contractor may invoke the right of reclamation for delivered goods still in the client's possession.
  - b. The contractor may claim additional damages if the client fails to return the delivered goods correctly.
  - c. In cases involving batches of goods and partial payments, the right of reclamation applies to all delivered products, regardless of whether they have been paid for or not.
5. All goods intended for the work, such as materials or components, only become the property of the client after the client has fulfilled all its financial obligations to the contractor.

#### **Article 27 – Warranty**

1. Within the limits of the following provisions, the contractor undertakes to repair, free of charge, defects that were present at the time of delivery but only become apparent within six months after the delivery.
2. This obligation only extends to defects that were not reasonably detectable at the time of delivery and that appear under normal operating conditions and with proper use of the delivered work. It does not apply to defects resulting from inadequate maintenance by the client, changes made without the contractor's written consent, repairs carried out by the client, normal wear and tear or defects for which the client is liable under Article 4, points 40 to 42.
3. To invoke the rights arising from Article 28, the client must:
  - Notify the contractor of the discovered defects in writing without delay;
  - demonstrate that the defects are due to poor quality or faulty execution of the work, or – if and insofar as the design of the work originated from the contractor – that they are the direct result of a blameworthy error by the contractor;
  - provide full cooperation to allow the contractor to rectify the defects within a reasonable period.
4. Defective parts replaced under the warranty obligation become the property of the contractor.
5. If, in the contractor's opinion, the costs of repair are disproportionate to the client's interest in the repair, the client is entitled to compensation for damages.

#### **Article 28 – Delivery**

1. Unless otherwise agreed in writing, all deliveries by the contractor take place according to Incoterms EXW 2020. Ex Works; the place of delivery is Parallelweg 1B, Bunnik. The contractor will make the delivery available at a date and time specified by the contractor and the client will be informed by email. The client is responsible for all transport, including loading, bears the transport costs and assumes the risk of damage to or loss of the delivery during transport, arranges all customs formalities and pays associated costs. The client will provide the contractor with the necessary information for completing customs documents. The contractor is not liable for consequences and damages if the information provided is incomplete or incorrect.
2. All agreed deadlines are final. Delivery of materials and/or goods must always be made as per the times, places and schedules agreed in the agreement in accordance with the timetable specified by the contractor, unless otherwise agreed in writing.
3. Delivery is considered complete when the materials and/or goods have been received by or on behalf of the client. Delivery of services is complete once the execution has been signed off as agreed.
4. If the contractor requests the client to delay the delivery, the contractor will store the designated materials and/or goods free of charge, adequately packaged and clearly marked as intended for the client, and indemnify the client against loss, damage or claims by third parties.
5. Delivery also includes the supply of all necessary tools, materials and goods, as well as Dutch-language documentation such as drawings, quality, inspection and warranty certificates, service manuals, instruction books and user manuals.
6. The contractor is entitled to make partial deliveries unless otherwise agreed in writing. In such cases, partial deliveries are also considered as delivery.
7. The inspection and/or testing of goods by the client does not constitute delivery or acceptance.

8. If the contractor delivers later than the agreed delivery date or delivers defective goods, the contractor is in default with regard to these obligations from the agreed delivery date, without a notice of default being required. The contractor is then liable for a penalty of 1% of the contract sum or the price for the goods delivered late or defectively per calendar day, up to a maximum of 10% of the contract sum or price. The penalty does not affect the contractor's obligation to compensate the client for all damages caused by late or defective delivery.
9. The contractor is obliged to notify the client in writing of any impending delay in the delivery date.

#### **Article 29 – Packaging and shipping**

1. If necessary, the contractor will package the materials and/or goods at its own expense, in accordance with legal requirements, using appropriate, environmentally friendly and preferably recyclable packaging, including a packing list.
2. Any special requirements set by the client for packaging and/or shipping must be strictly adhered to, provided they are communicated to the contractor in writing and in a timely manner.
3. The client is responsible for the removal or disposal of packaging, waste, chemical waste and excess materials at its own expense, insofar as they originate from or relate to the delivery of materials, goods or the execution of work under the agreement. The client must comply with applicable laws and regulations. The contractor is not required to take back packaging material upon the client's request.

#### **Article 30 – Applicable law and disputes**

1. This agreement and all agreements arising from it are exclusively governed by Dutch law. The Vienna Convention (CISG) is excluded and does not apply to this agreement or other agreements.
2. For disputes not under the jurisdiction of the subdistrict sector of the court, all disputes between the parties will be submitted by the contractor to be settled in accordance with the arbitration rules of the Netherlands Arbitration Institute or the Arbitration Board for the Metal Industry and Trade, with the choice of arbitration organisation determined by the contractor. In deviation from the previous provision, the contractor is authorised to submit the dispute to the ordinary court in the district of the contractor's place of business.
3. The client is required to elect domicile in the Netherlands for matters related to the agreement, insofar as it is not already established in the Netherlands. Failing this, the client is deemed to have elected domicile in The Hague.
4. A delay or failure to demand strict compliance with contractual or non-contractual obligations or to exercise any right does not affect the contractor's ability to exercise its rights at a later date. A waiver of rights by the contractor can only be made expressly and in writing.
5. Approval, acceptance or consent granted by the contractor never constitutes a waiver of rights and does not release the supplier from its obligations under the agreement.

#### **Special provisions on maintenance**

The provisions in this chapter 'Maintenance' apply in addition to the General Provisions of these general terms and conditions if the agreement explicitly states that the contractor will carry out maintenance work during the maintenance period.

#### **Article 31 – Scope and definitions**

1. Unless otherwise agreed, maintenance work is only performed on installations located in the Netherlands.
2. The following terms used in this chapter are defined as follows:
  - a. Maintenance work: all activities, including the supply of goods, that the contractor must perform to ensure that the technical condition of the installation and its functions during the maintenance period meet the requirements arising from the agreement.
  - b. Malfunction: a sudden, unexpected interruption in the performance of the installation.

#### **Article 32 – Performance of maintenance work**

1. During the maintenance period, the contractor will make reasonable efforts to keep the probability of malfunctions occurring at an acceptable level in accordance with the work plan with preventative maintenance work referred to in paragraph 3 and, insofar as agreed, to eliminate malfunctions with corrective maintenance work.

2. The contractor is authorised to perform maintenance work remotely through a telecommunications connection with the installation.
3. After the agreement is concluded but before the maintenance work begins, the contractor will create a work plan, including a schematic overview of the maintenance work, the order and the time periods (weekly, monthly, annual schedules) in which this will be performed.
4. The work plan is based on the client's description of the installation's malfunction behaviour, all tasks, execution frequencies, materials, tools and any necessary skills required for performing preventive maintenance and managing corrective maintenance.
5. The work plan takes effect after the client's approval. If the work plan fits the description mentioned in paragraph 4, the client cannot withhold its approval.
6. The contractor will adjust the work plan annually and prepare a cost estimate for all maintenance costs for the relevant year. Interim adjustments can only be made through a modification under Article 12.
7. Where agreed, the work plan will include the start and completion dates of planned and anticipated tasks for preventive and/or corrective maintenance and/or other work.
8. The tasks referred to in paragraph 7 must be provided in writing by the client at least one month in advance, based on the work plan. Tasks not included in the work plan must be provided in writing at least two months in advance. Before issuing the task, the contractor will provide a price quote.
9. For corrective maintenance work, the client must issue a written task in advance. If circumstances prevent this, the task will be issued retrospectively based on the actual costs incurred by the contractor.
10. After completing the maintenance work, the contractor will ask the client to sign off on the task as completed. Once signed, the maintenance work is considered delivered.
11. Where explicitly agreed, the contractor will ensure that one copy of the technical information is available at the site or location where the maintenance work is performed and that these documents are accessible at all reasonable times, with the 'As Built' condition of the completed maintenance work incorporated, against a fee established in the agreement.
12. If the performance, reliability and maintenance of the installation require it or the rules referred to in Article 3, paragraph 5 mandate it, the contractor will inform the client of any necessary measures. The client may issue a separate order for the necessary construction changes or other (project-related) work through a modification under Article 12.
13. The contractor will notify the client in advance of the time when the maintenance work will be performed. If the work is not performed at the agreed time and this is not the contractor's fault, the contractor is entitled to an extension of time and/or compensation for costs under Article 10.
14. Where explicitly agreed, the contractor will ensure that malfunctions can be reported to a designated contact point 24 hours a day, seven days a week.
15. Notwithstanding the provisions of paragraph 9, the contractor will make reasonable efforts to rectify urgent malfunctions within 24 hours of the client's report, unless a different period has been agreed. Other malfunctions will be rectified during the contractor's normal working hours, where possible.
16. The contractor will perform maintenance work during the maintenance period specified in the agreement, or in the absence of such for a period of one year.
17. The maintenance period will automatically renew for the original period, unless either party terminates the agreement in writing, with three months' notice before the end of the relevant period.
18. The maintenance work performed by the contractor will be charged according to the rates, unit prices or fixed price specified in the agreement, which will be indexed annually according to the material index of the RWU '91 and the wage index of Statistics Netherlands, unless otherwise agreed.
19. Payment for the services will be made within 14 calendar days of the invoice date and after the client has received the relevant invoice.
20. If an order to perform maintenance work is cancelled, the client must give at least one month's notice.