

GENERAL TERMS AND CONDITIONS OF PURCHASE AND SUBCONTRACTING

Version 2020.01

Filed with the Oost-Brabant District Court on 21 September 2020 under number 27/2020.

PART 1: GENERAL PART

Article 1. General

1.1 The definitions below are applied in these general terms and conditions.

- **“workers”**: all persons engaged or to be engaged (directly or indirectly) by or on behalf of the contractor, including the contractor's employees, 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”**: MVRO makers van retailomgevingen B.V. (Chamber of Commerce number 09123309) or any legal entity/enterprise affiliated thereto, whereby only the legal entity with which the agreement is concluded enters into obligations towards the contractor.
- **“contractor”**: any natural or legal person with whom the client negotiates and/or with whom the client concludes an agreement.
- **“assignment”**: the delivery of goods and/or performance of work commissioned by the client.
- **“agreement”**: any agreement concerning the delivery of goods and/or the performance of work 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 offer) and in execution thereof.
- **“delivery of goods”**: all work and services related to the delivery of goods, insofar as they are not covered by "performance of work".
- **“performance of work”**: the performance of design and/or execution work, including the creation of material works, and/or the provision of services and/or carrying out 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/management according to the main agreement.

1.2 These general terms and conditions apply to all requests and assignments by the client. These general terms and conditions also apply to all offers, quotations, assignments, legal relationships and agreements, by whatever name, relating to the performance to be performed by the contractor to the client.

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

the provisions of the SPECIAL PART PURCHASING CONDITIONS will take precedence.

- 1.4 If the agreement relates to the performance of work, in addition to the provisions of the GENERAL PART (1), the provisions of the SPECIAL PART SUBCONTRACTING CONDITIONS (2 B) will apply. In case of inconsistency, the provisions of the SPECIAL PART SUBCONTRACTING CONDITIONS will take precedence.
- 1.5 Dutch will be the working language in respect of all matters relating to the agreement.
- 1.6 These general terms and conditions also apply to any additional or follow-up assignments by the client.
- 1.7 The applicability of the contractor's general terms and conditions is hereby expressly rejected by the client.
- 1.8 Any offer or promise made by a representative of the contractor will only be binding to the extent that the contractor has confirmed this in writing. Verbal agreements will only be binding on the contractor after and to the extent that they have been confirmed in writing. Only the director of the client is authorised to represent the client.
- 1.9 Insofar as these general terms and 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 terms and 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 drawing up an offer will be borne by the contractor.
- 2.2 An offer by the contractor is irrevocable, unless the contractor has expressly stated in writing before or at the time the offer is made that it is revocable.
- 2.3 The contractor will maintain its offer for a minimum period of 3 months.

Article 3. Agreement

- 3.1 An agreement only comes into being: (1) by the contractor signing the unaltered order confirmation (also referred to by the client as 'purchase order') which the client has sent to the contractor or (2) if the contractor fails to return the order confirmation within 8 days of the date of dispatch and does not object in writing to the contents of the order confirmation or has commenced performance of the order within that 8-day period, as a result of which the contractor must be deemed to have accepted the order, subject to the conditions set out in the order confirmation and subject to the applicability of these general terms and conditions. All this without prejudice to the provisions of Article 5 (Conditions precedent) of these general terms and 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.
- 3.2 All agreements will be governed by the terms of, as if it had been incorporated verbatim therein:
- a. all technical and administrative provisions relating to the assignment and the accompanying documents, including drawings as well as a definition of the assignment, specifications, work description, step-by-step plan per project, official reports, inspections, instructions changes in specifications, explanatory notes, additions and implementation guidelines;
 - b. these general terms and conditions;
 - c. everything else by virtue of which the client is bound to the manager and/or the principal by virtue of the main agreement, insofar as directly or indirectly

- related to the assignment, all this insofar as the contractor has been able to take cognizance thereof. The provisions of the agreement will at all times prevail over the provisions under a, b and/or c above.
- 3.3 In the event of conflict between the provisions and/or documents referred to in a, b and c, above, none of the provisions and/or documents will take precedence over the other, but the provisions and/or documents will be viewed in an interrelated context. Without prejudice to the provisions of Article 3.5, the following guidelines apply:
- a. a new document takes precedence over an old 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. Upon request, copies of these documents will be provided to the contractor. The contractor will be deemed to have had access to 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 related documents, working methods, information, instructions, decisions and the like. If the contractor discovers any ambiguities, errors and/or defects (or suspects that they exist), it will immediately inform the client in writing and ask for clarification before proceeding to execute, create or deliver, failing which the contractor will be liable for all harmful consequences as a result.
- 3.6 Additions 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 in writing by the client.
- 3.7 In the performance of the assignment, the contractor will follow the orders and instructions given by the client. This will not release the contractor from (i) its obligations as described in Article 3.5 and (ii) its professional responsibility, which will remain entirely with the contractor under all circumstances.
- 3.8 The contractor will perform the assignment in accordance with the requirements of good and 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 concluded in accordance with that offer by the client, and
- b. the principal has approved the engagement of the contractor by the contractor by the client.

Only the client can invoke or waive these conditions precedent.

Article 5. Several liability

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

Article 6. Integrity

- 6.1 The client applies the following rules of conduct:
 - a. respectful treatment of clients, contractors, employees and communities;
 - b. recognising environmental responsibility, also with a view to future generations;

- c. creating economic value in an honest and sustainable manner.
- 6.2 The client and the contractor regard health and safety as a priority. The parties are committed to the continuous improvement and maintenance of their health and safety performance for all their employees and for all persons affected by their activities.
- 6.3 The contractor guarantees that its offer made within the framework of the present agreement have been made in a lawful manner and, more specifically, that these have been made without an agreement or concerted practices with co-tenderers, subcontractors and/or other third parties which have the object or effect of preventing or restricting competition and/or raising prices unlawfully as a result.

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

- 7.1 The appendices to the agreement as referred to in Article 3.2 (Agreement) of these general terms and conditions, as well as the drawings, calculations and other documents, models, working methods and suchlike, computer files and other data carriers (electronic or otherwise), which the client has provided to the contractor, or which the contractor has created or commissioned for the assignment, or which the contractor has developed in cooperation with or in assignment of the client, will remain or become the property of the client and will, at the expense of the contractor, be returned or sent to the client at its first request.
- 7.2 The contractor will not be permitted to use the items referred to in Article 7.1 in any manner other than for the purpose of and as provided in the agreement. The use of the items referred to is entirely at the risk of the contractor.
- 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 (whether or not 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 referred to in Article 3.2 (Agreement) (forming part of the Agreement), as well as the documents referred to in Article 7.1 (Ownership of documents, etc.), which have been provided to the contractor by the client, will accrue to the client to the exclusion of all others.
- 8.2 By concluding the agreement, the contractor will transfer the aforementioned intellectual property rights to the client to the extent necessary. The contractor will at the client's first request and at its own expense cooperate in this transfer and to perform all necessary acts to that end - such as signing (transfer) forms.
- 8.3 In addition to the price received for the assignment from the client, the contractor is not entitled to (additional) compensation for and in connection with the transfer of the rights referred to in Article 8.1.
- 8.4 The client will be regarded as the creator or designer of the items referred to in Article 7.1 (Ownership of Documents, etc.).
- 8.5 The contractor guarantees that the performance of the agreement will not infringe any intellectual property rights of third parties. The contractor indemnifies the

client without any restriction against third-party claims due to infringement of these rights. The obligations of the contractor arising from Article 8.5 will continue even after termination of the agreement.

- 8.6 If the contractor makes use of BIM (Building Information Modelling) in the performance of the agreement, the following applies. The contractor grants 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 this information available to 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 whatsoever (e.g. via social media) without the prior written consent of the client.

Article 9. Confidentiality

- 9.1 The contractor will observe secrecy towards third parties of the contents of the agreement, the documents referred to in Article 3.2 (Agreement), the documents referred to in Article 7.1 (Ownership of documents, 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 this in the broadest sense of the word.
- 9.2 The contractor will oblige the workers and/or third parties engaged by it in the performance of the agreement in writing to observe the same confidentiality.
- 9.3 The obligations of the contractor arising from Article 9.1 will continue even after termination of the agreement.

Article 10. Noncompetition

- 10.1 The contractor will refrain from directly or through the mediation of third parties making quotations and/or offers to the principal, including those for extensions and/or changes, concerning the project, either .
- 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 will apply during the term of the agreement concluded between the client and the contractor. Furthermore, this obligation applies for a period of 12 months after the performance of the agreement.

Article 11. Outsourcing and borrowed workers

- 11.1 Without prior written consent of the client, to which consent conditions may be attached, the contractor is not permitted to outsource the performance of the agreement in whole or in part to a third party and/or to make use of borrowed workers.
- 11.2 If the contractor assigns the performance of the agreement (in whole or in part) to another party (whether or not by outsourcing or borrowing of workers) after having obtained consent, the contractor will immediately draw up a written agreement, of which the terms and conditions of this agreement (including these general terms and conditions) will form part, in such a way that the contractor assumes the legal position of the client and the supplier/subcontractor/third party assumes the legal position of the contractor.
- 11.3 The provisions of this article are without prejudice to the contractor's obligations to the client under the agreement.
- 11.4 In the event of outsourcing and/or borrowing of workers as referred to in this article, the contractor is and remains obliged to strictly comply with the agreement (including but not limited to the provisions of Article 21 (Obligations

in connection with various laws and regulations)), including in the context of recipients' liability (Section 34 Collection of State Taxes Act 1990) and 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 17 (Liability and indemnification) will apply in full.

Article 12. Setoff

- 12.1 The client may set off any amounts owed to the contractor by the client in connection with the agreement (and for any other reason) against all claims which the client and/or persons or legal entities affiliated with the client have against the contractor and/or persons or legal entities affiliated with the contractor. Settlement by the client will be possible, regardless of whether a claim or debt is due and payable, conditional or subject to a time limit.
- 12.2 In the event of set-off, the client will not be bound by the relationship arising from the agreement between what is to be deposited in the blocked account and what is to be deposited in the ordinary account of the contractor, and will therefore be entitled to set off the claim against what it owes in favour of the ordinary account of the contractor in its entirety or to the extent desired by it.
- 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 increases 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 34 (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) do not affect the price either.
- 13.3 Unless the agreement explicitly states that the quantities are adjustable, the quantities stated in the agreement are stated as accurately as possible and will be delivered as much more or less as the work requires, without the contractor being entitled to demand a price adjustment per unit.

Article 14. Invoicing

- 14.1 The invoices to be sent by the contractor to the client will meet the requirements set by or pursuant to the Turnover Tax Act 1968.
- 14.2 The contractor will in any case clearly and conveniently state the following information on the dated and numbered invoice:
- the client's purchase order number (as stated in the order confirmation) that relates to the assignment;
 - the work and the place(s) of performance to which the invoice relates;
 - the period of time and performance to which the invoice relates;
 - the amount of the wage and salary bill included in the invoiced amount;
 - the percentage of the wage and salary bill and the amount to be transferred to the blocked account;
 - name, address and place of residence of the contractor;
 - VAT number of the contractor;

- h. a statement as to whether or not the reverse charge mechanism (as referred to in Section 24b1968 Turnover Tax Implementation Decree) is applicable. In the event of applicability, state "VAT reverse-charged". If not applicable, stating the amount of VAT;
 - i. the contractor's wage tax number;
 - j. the number of the contractor's blocked account as referred to in Article 15.8 (Payment and final settlement).
- 14.3. Invoices from the contractor will be submitted in singular stating the purchase order number indicated by the client. The invoice will be submitted by email to the address administratie@mvro.nl, unless a different method of invoicing has been specified in the confirmation of assignment.
- 14.4. The contractor is not entitled to increase the invoice with a so-called late payment surcharge.
- 14.5. In the event of an instalment scheme, the contractor will draw up a separate invoice for each instalment.
- 14.6. Upon request, the contractor will provide the client, free of charge, with all information for its administration or that of the principal.
- 14.7. The client will be entitled to suspend payment if the contractor has not fulfilled all its obligations. Payment by the client will in no way constitute a waiver of any 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 required 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 be provided in the form of a sound bank guarantee to be issued by a Dutch bank.
- 14.9. Invoices that do not meet the requirements of the previous paragraphs of this article will be returned without being processed and will not be paid.

Article 15. Payment and final settlement

- 15.1. If the contractor has fulfilled all its obligations under the agreement, the contractor may invoice the agreed price to the client. Unless otherwise agreed, payment by the client will take place within thirty (30) days after the date of receipt and approval of the relevant invoice. Payments by the client will only be made on Thursdays. If the term of payment expires on a day that is not a Thursday or on a day on which no payment transactions are possible, the term of payment will be extended to the next Thursday on which payment transactions are possible.
- 15.2. Payments will be made on the basis of an agreed payment scheme and, in the absence of such a payment scheme, after the last delivery (in the case of purchase) or after delivery of the work (in the case of subcontracting). The client will only pay:
- a. as soon as the delivery/work or the part to which a (instalment) payment relates has been satisfactorily delivered by the contractor;
 - b. after receipt by the client of an invoice in accordance with the provisions of Article 14 (Invoicing); and
 - c. after the contractor has demonstrated, at the client's request, that it has paid the workers involved in the work to which they are entitled and that it has paid the social security and wage tax contributions due for these workers.
- 15.3. The contractor will submit its final invoice in accordance with the agreement. The final invoice will contain a balance and clear description of the original assignment,

- the agreed price and any additional and/or less work ordered. The final invoice 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 (Contract variations) If the client has not received the final invoice within the said term, the contractor will no longer be entitled to payment of the amount of any positive balance of the final invoice.
- 15.4. Without prejudice to the provisions of these general conditions, the client will be entitled to suspend payments until such time as the signed and unaltered copy of the confirmation of assignment signed by the contractor has been returned to the client.
- 15.5. Payment by the client for the delivered (approved) goods and/or (parts of) the work will not release the contractor from any guarantee and/or liability arising from the agreement or the law.
- 15.6. In the event that the contractor fails to fulfil its obligations under the agreement, whether or not imputably, after a written notice of default, the client will not be obliged to pay any compensation, except for payment for deliveries already made and approved. If the shortcoming is attributable to the contractor, this payment will be made after deduction of the damage and costs incurred and/or to be incurred by the client as a result of the attributable shortcoming.
- 15.7. If, due to the contractor's default or inability, the client performs the work in whole or in part, or has it performed by others, the client will be entitled, at the expense of the contractor, to pay a fair compensation directly to subcontractors and suppliers of the contractor for the work and deliveries for which they have not yet received payment. The client will not do this without having heard the contractor or its legal representative on the matter.
- 15.8. The client will at all times be entitled to pay the wage taxes owed by the contractor in connection with the agreement (including: wage tax, national insurance contributions, social insurance contributions, employee insurance contributions and income-related health insurance contributions) and turnover tax, for which the client may be jointly and severally liable pursuant to Sections 34 and/or 35 Collection of State Taxes Act 1990, by means of a deposit into the contractor's blocked account within the meaning of the aforementioned sections of the Act. The contractor will ensure that a blocked account is available.
- 15.9. Without prejudice to the provisions of Article 15.8, 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 15.8 and 15.9, 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 be of the opinion that the contractor will owe a higher amount in wage taxes (including: wage tax, national insurance contributions, social insurance contributions, employee insurance contributions and income-related health insurance contributions) than the percentage set in the agreement, it may change that percentage.

Article 16. Liability and indemnification

- 16.1 The contractor will be liable for all damage whatever nature arising in the context of the execution 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 third-party claims in this respect and will compensate the client if necessary.
- 16.2 The contractor will be 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 by the contractor.
- 16.3 The contractor will be liable for damage to auxiliary materials, constructions, tools, equipment as well as items not yet included in the work, which have been supplied to the construction site by the contractor, including damage due to theft, loss of value, vandalism and damage, including arson.
- 16.4 The client will never be liable to the contractor for damage resulting from the delay in the performance of the assignment. If a delay occurs, the contractor will, in consultation with the other contractors involved in the assignment, try to prevent, or at least keep to a minimum, the delay and the resulting costs and damage. Any delay as well as the threat of delay will be reported to the client immediately.
- 16.6 If the contractor suffers damage as a result of an event for which the client is legally liable to the contractor, the contractor will, on pain of forfeiture of its right to compensation, inform the client in writing within two (2) months after the contractor has discovered or reasonably could have discovered the damage, also insofar as it concerns future damage. The client's liability will be limited to direct damage. Direct damage will under no circumstances include: trading loss, loss of production, loss of turnover and/or profit and loss of value of products.
- 16.7 The client will be entitled to set off any claim for compensation against the contractor in accordance with Article 12 (Setoff).

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 will, among other things:
- a. have a 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;
 - b. have a primary professional liability insurance with a minimum cover of € 2,500,000 (in words: two million five hundred thousand euro) per event;
 - c. insure the risk of liability for damage to the client and/or third parties in accordance with the statutory requirements when supplying or deploying motor vehicles or other (rolling) equipment. The contractor guarantees and indemnifies the client in this respect that (1) 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, (2) comprehensive insurance has been taken out, (3) the policy designates the client as co-insured and insurers cannot take recourse against the co-insured client and (4) the motor vehicles and work equipment insurances do not contain any exclusions with regard to the so-called work risk and/or damage to underground objects, such as cables and pipes;

- d. adequately insure the equipment used by the contractor (such as tools, building supplies, building materials) against property damage and personal injury, including any resulting damage caused by or in connection with the use of the equipment;
 - e. if the agreement wholly or partly implies that goods are made available to or by the client under any title whatsoever, insure these goods sufficiently for and to the satisfaction of the client, including in any case the risk of loss, theft, damage, storm, fire and statutory liability.
- If several insurances apply in the event of damage, 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 order or the Contractor will ensure that the 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 must be to the satisfaction 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. The CAR insurance will at least cover an insured amount per event of € 1,500,000 (in words: one million five hundred thousand euro). The CAR insurance will at least cover 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 supplies present at the work or at the work site made available to the contractor by the client and any other unavailable work site which the contractor uses for the performance of the work and/or the storage of building materials for the purpose of the work are included in the insurance.
 - a.2. If it concerns the transport of building materials between separate work sites as referred to under a.1, the transport risk of building materials intended for the work, which are permanently included in the work, are expressly included in the insurance.
 - a.3. During the agreed maintenance period the material damage, the cause of which lies in the period up to the delivery of the work, or is related to work carried out pursuant to obligations on the basis of (maintenance) provisions in the agreement, are included in the insurance.
 - b. Own fault: the terms and conditions of insurance expressly stipulate that the insurance will also include the risks of loss or damage caused by own fault, including loss of or damage to the part directly affected by own fault and of loss or damage resulting

from construction faults, design faults, faulty materials and insufficient expertise, all this to the detriment of 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 by or in connection with the execution of the work and/or maintenance obligations to the work and/or to property of the client, as well as for damage and/or injury caused to third parties. All parties involved in the execution of the work and their employees are regarded as third parties in relation to one other.
- d. Damage to existing property of the client: the insurance includes, on a premium-risk basis, damage to and/or loss or destruction of existing property of the client, provided that this damage, loss or destruction was caused by or in connection with the execution of the work and/or the maintenance obligations.
- e. Damage to property of the insured parties (including workers of insured parties and engaged third parties): the insurance includes, on a first-risk basis, damage to and/or loss or destruction of property of the insured parties that is present at the worksite.

The (policy of) the CAR insurance states the contractor as the policyholder. In addition to the contractor, the following will be designated as insured parties:

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

Ancillary contractors are also explicitly co-insured.

- 17.3 The contractor will take out additional insurance if necessary (whether or not at the client's first request), so that the insurance is adequate.
- 17.4 The insured amount will be such that it covers the risks to which the contractor is subject under the agreement. Unless stipulated 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 an insurance (including the insured amount and the (policy) conditions) to the client's detriment. Insurance of liability will not affect the contractor's liability under the agreement or the law.
- 17.6 In the event of a conflict between the requirements set by the principal for the content of the client's insurance and the actual content of the client's insurance, the latter will prevail. This means that the contractor cannot invoke the relevant requirements of the principal.
- 17.7 At the first request of the client, the contractor will make copies of the insurance policies of the insurance companies available to the client, as well as copies of the corresponding premium payments.
- 17.8 If the contractor fails to comply with its insurance obligations, the client will be entitled (but not obliged) to arrange insurance itself, at the expense of the contractor.
- 17.9 The contractor will also bear the obligations imposed on (co-)insured persons by the insurance conditions. If the contractor fails to fulfil its insurance obligations, the

client will be entitled to fulfil these obligations on behalf of and for the account of the contractor.

- 17.10 The contractor will stipulate that the terms and conditions of insurance will expressly stipulate that the insurance company will not recover any claims paid by it from the client.
- 17.11 The excess of any insurance will be borne entirely by the contractor, insofar as the damage is for the contractor's risk and account.
- 17.12 Claims to any insurance taken out by the client will only arise by means of a statement to that effect by the client. If the contractor is co-insured on a policy of the client, the contractor will, in the event of damage caused by the contractor, be obliged to compensate the excess or any damage not covered under the policy itself.

Article 18. Delivery 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 4 weeks after delivery of goods/performance of work, unless a different time is specified. Failing this, the client may suspend payment until these are in its possession.
- 18.2 The contractor grants the client a worldwide, non-exclusive, perpetual, royalty-free and irrevocable license to use software and the documentation that is part of delivered goods. The client is entitled to sublicense the software and/or to transfer the licence to the principal, with the principal similarly entitled. 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 terms and 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 5 years will apply. The contractor guarantees in any event that the goods or work delivered, including the materials used for that purpose, are at least:
 - a. of good quality, without any defect in design, choice of materials, construction, assembly and materials, and,
 - b. in accordance with the provisions of the agreement (and the accompanying documents, including those referred to in Article 3.2 (Agreement) of these general terms and conditions) and suitable for the purpose for which they are intended and in accordance with the requirements set for them in the agreement and by or on behalf of the government.

The goods or work delivered will be of sound materials and proper execution, realised by skilled persons under expert supervision, in all respects in accordance with the drawings and specifications and, if applicable, will be at least equal to the samples or models provided or shown to the client by the contractor. The goods or work delivered will otherwise be fully capable of providing the intended performance, as well as complying with all standards, inspection characteristics, laws and government regulations applicable at the time of the conclusion of the agreement and at the time of the actual delivery (as soon as the goods or work delivered have been received by the client at the agreed place of delivery). The contractor

- further guarantees that the goods or work delivered are suitable for the purpose for which they are intended.
- 19.2 With regard to the provisions of Article 19.1, the following also applies. If the maker's guarantee is more extensive than that referred to above, at least the maker's guarantee will apply. If the client is obliged to provide a certain guarantee to the principal, the contractor will also be obliged to provide that guarantee (additionally). The provisions of this paragraph will never have the effect of excluding the guarantees referred to in Article 19.1 or restricting them in scope or duration.
- 19.3 The guarantees referred to in Articles 19.1 and 19.2 apply (i) in the event of purchase, from the day of delivery, (ii) in the event 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 event of delivered technical components and installations in particular, from the day of commissioning.
- 19.4 Without prejudice to the other claims of the client, the contractor will repair all defects occurring during the guarantee period at its own expense on the first notification of and in consultation with the client as soon as possible.
- 19.5 If, after written notice of default, the contractor does not remove the defect, or does not do so on time and/or properly, or if removal of the defect cannot be postponed, the client will be entitled, after written notification, to carry out the necessary work or have it carried out at the expense of the contractor. The client is entitled to recover these costs from the contractor.
- 19.6 After replacement or repair within the guarantee period, the agreed guarantee will commence again for the relevant part of the delivered goods or work.
- 19.7 After expiry of the guarantee period applicable under this article, any liability of the contractor under the agreement or the law will continue to exist, including liability for hidden defects.
- 19.8 The contractor will structure and maintain its organisation in such a way that the origin of each part or component of the delivery can be traced on, 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 goods delivered and/or works carried out at least during their normal lifetime.
- 19.11 The client is entitled to transfer to the principal (or another third party to be designated by the client) all claims it has against the contractor under the guarantee (including the guarantee itself) and/or pursuant to this article. The contractor grants its consent to such a transfer in advance.

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 the proper receipt, storage and transport of the materials at the work site and any returns.
- 20.2 Unless agreed otherwise in writing, the contractor will provide all necessary materials, such as scaffolding, aerial work platforms, etc., at its own risk and. Tools will be of sound quality and comply with the applicable statutory

- requirements and regulations. All transports of materials and equipment are at the contractor's risk and expense.
- 20.3 If materials made available by the client are used for the work to be carried out by the contractor, such use will only be permitted 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 in which they were provided. The contractor is responsible for the correct and careful handling of materials and will ensure correct receipt, storage and transport thereof. The use of the materials is at the risk of the contractor and the contractor is fully liable for any damage caused by such use. The contractor will indemnify the client against third-party claims in this respect.

Article 21. Obligations in connection with various laws and regulations

- 21.1 If the contractor outsources the performance of the agreement in whole or in part to a third party, as well as if it makes use of (borrowed) workers made available for the performance of the agreement, laws and regulations will be strictly complied with.
- 21.2 The contractor will comply with all legislation and regulations (now or in the future) concerning 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 will indemnify the client against any fines and/or penalties and/or damage (such as loss of income or claims by the principal and/or third parties) on account of violation of legislation and regulations, including as referred to in Articles 21.1, 21.2 and 21.3.
- 21.5 Within the framework of compliance with the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act and the recipients' liability, the contractor will ensure that a blocked 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 security contributions, wage tax including national insurance contributions, employee insurance contributions and income-related health insurance contributions (also within the framework of the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act);
 - b. indicate which collective neighbour agreement applies prior to commencement of its work and provide the pay slips for inspection at the client's request;
 - c. at the client's request, provide its VAT number, membership number with the business association and the business licence number, insofar as this is required;

- d. have 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 (Recipients' liability) or 35 (Vicarious tax liability) of the Collection of State Taxes Act 1990 applies, the original blocked account agreement. The contractor will provide a copy of these documents to the client before commencement of the work;
 - e. prior to 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 change in question, to the extent required and permitted by law, the data as referred to in the Collection of State Taxes Act 1990, the Liability of Recipients, Subcontractors and Clients 2004 Implementing Regulations 2004 and/or the Collection Guidelines of all workers put to work by the client or principal. In any case, the data to be provided per worker will consist of: (1) name, address and place of residence details, (2) date of birth, (3) citizen service number (BSN), (4) nationality, (5) the type of identity document, the number of the identity document and the period of validity and (6) copies of a valid A1 declaration, residence permit, work permit and/or notification;
 - f. at the client's request, before workers commence work, provide a list of names of all workers directly or indirectly employed by the contractor;
 - g. weekly provide a register of man-days signed by the site manager in respect of the work assigned. In the case of foreign employees, the contractor will request a Dutch citizen service number (BSN) for each worker and report this to the client if a tax liability arises in the Netherlands;
 - h. once a quarter, or as many times as the client wishes, provide the client with a statement regarding its payment of wage tax and social security contributions. If the contractor is a member of *Stichting Normering Arbeid* (Labour Standards Foundation), a copy of the most recent NEN-4400 certificate will suffice;
 - i. indemnify the client against liability for fines imposed by the principal and/or third parties for the contractor's failure to comply with its obligations under the agreement or pursuant to the law;
 - j. keep a payroll administration in accordance with the applicable 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 fulfil all its obligations to 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 provide the client with a copy of the signed agreement. The contractor will ensure that the self-employed persons carry out the work in accordance with the agreement;
 - m. at the client's request and at least once a quarter on its own initiative, provide an original statement to the Tax and Customs Administration regarding its payment behaviour, as referred to in the legislation and regulations adopted in the context of recipient's and vicarious tax liability;
 - n. in accordance with applicable legislation and regulations (e.g. with the Verification Obligation Procedure of the SZW Inspectorate, check the validity and authenticity of identity documents of the employees made available by the contractor, store them and determine whether they are permitted to perform work in the Netherlands;
 - o. send a copy of the valid identity document (as referred to in the Compulsory Identification Act) before the commencement of work for workers who are non-EEA and non-Swiss nationals;
 - p. prior to employment, inform the client if workers from EU countries other than the Netherlands are employed in the performance of the agreement, stating the names and dates of birth of the employees concerned and submitting evidence (such as an A1 form) showing that the social insurance premiums for these workers will be 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) must 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 personnel 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 14 days prior to commencement of the work, and will immediately pass this on to the client.
 - 21.8 If the client can reasonably be of the opinion that the contractor will owe a higher amount in social security contributions, wage tax and national insurance contributions in respect of the work than the percentage set out in the agreement, it may change that percentage.
 - 21.9. If the client is held liable by law and is therefore obliged to pay unpaid (advance) social security contributions, social security contributions and taxes, the client will be entitled to recover the full amount from the contractor, plus statutory interest from the time of payment by the client.
 - 21.10 If the contractor fails to fulfil its obligations under the applicable collective labour agreement(s) towards its workers 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 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 is then entitled, without any notice of default or judicial intervention being required, to declare the agreement fully or partially terminated, without prejudice to his right to compensation.
 - 21.12 The contractor guarantees that during the work at work there will be a person present who is able to communicate with the contractor's employees in both Dutch and the relevant foreign language.

- 21.13 Workers must demonstrate that work is freely permitted for them or must have a valid work permit.
- 21.14 Without prejudice to its other obligations, the contractor will ensure, at the client's first request, that all documents, including identity documents (if required), of which the client requires a copy within the framework of the WID, WAV, are submitted to the client.
- 21.15 the contractor will record all employment conditions applicable to the performance of the assignment in a clear and accessible manner.
- 21.16 On request, the contractor will provide the client and the competent authorities with access to these employment conditions and will cooperate in checks, audits or wage validation. If the audit reveals that the contractor does not comply with the obligations referred to in the above paragraphs, the costs of the audit, as well as the associated costs, will be borne by the contractor.
- 21.17 On request, the contractor will allow the client, or a person authorised by the client for that purpose, to inspect these employment conditions if the client deems this necessary in connection with the prevention or handling of a claim for wages in respect of work performed for the purpose of the work, as well as in connection with the detection of irregularities.
- 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) under the applicable working conditions regulations (including in any case the Working Conditions Act and the legislation and regulations based thereon), as well as all other statutory obligations arising from its role as contractor.
- 21.19 If, in the performance of the agreement, an industrial accident occurs within the meaning of the Working Conditions Act, the contractor will report the accident to the competent authority. The contractor will keep the client informed of the investigation following the report, which also applies to other investigations within the framework of the Working Conditions Act.
- 21.20 If the contractor must 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 thereof.
- 21.21 The contractor will regularly check compliance with applicable legislation and regulations (including the WKA, WAS, WAV, Wet DBA, WAADI, WAB, WagwEU and/or WID) and working conditions legislation both by the contractor and its employees. In the event of observed breaches/noncompliance, the contractor will take all necessary measures to ensure that the obligations are complied with. If the client wishes to carry out periodic inspections, the contractor and/or its employees will provide all necessary cooperation and information.
- 21.22 The contractor will impose all the above contractual (disclosure) obligations in full on all parties with whom it enters into agreements for the performance of the assignment. The contractor will also stipulate that these parties subsequently include the above contractual obligations in full in agreement entered into for the performance of the assignment.
- 21.23 The contractor indemnifies the client against:
- a. all claims by third parties, including workers, with regard to payment of wages arising from work carried out in the context of the performance of the agreement as well as other claims pursuant to applicable legislation and regulations and/or collective labour agreement and fines in connection with noncompliance with the applicable legislation and regulations and/or collective labour agreement, also including claims by third parties in the context of the WAS;
 - b. fines and/or (punitive) measures imposed on the client and/or the principal and/or third parties as a result of the acts and/or omissions of the contractor (as well as third parties engaged by it) in violation of the WKA, WAS, WAV, Wet DBA, WAADI, WAB, WagwEU and/or WID (and/or any other legislation and regulations);
 - c. all claims of third parties, including the Tax and Customs Administration, in connection with taxes and contributions payable by the contractor (as well as its workers) (including: national insurance contributions and social security contributions).
- 21.24 The client may lay down (and change) rules on the way in which information 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 uses a digital (construction site) registration system for the identification and registration of workers. To this end, the client may make use of systems made available by third parties and may change the systems. The current data and regulations regarding the (construction site) registration system can be found at www.mvro.com/bouwplaatsregistratiesysteem.
- 22.2 The Contractor will ensure that the obligation to comply with the digital (construction site) registration system is passed on to each subsequent party in the construction chain, so that it is clear which parties are present on the construction site and what their mutual relationship is.
- 22.3 Before a worker enters the construction site, the contractor will ensure that this worker has been registered in accordance with the (construction site) registration system.
- 22.4 The contractor will enter all required documents and/or information in the (construction site) registration system prior to commencement of the work. The contractor will comply with the manuals and instructions as they currently apply and as they change from time to time.
- 22.5 Workers will always be able to show a valid identity document, identity badge and, where applicable, a valid work permit (including at the workplace). The client may periodically (randomly) check this.
- 22.6 The costs of the (construction site) registration system relating to the contractor (including its workers) will be borne by the contractor. The contractor will, at the client's election, reimburse those costs to the client or the third party designated by the client.
- 22.7 Any third party engaged by the contractor will register its own workers in good time and in full.
- 22.8 If the provisions of this article and/or (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 shall take place.
- 22.9 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.
- 22.10 The contractor will indemnify the client against all damage in connection with failure to comply or comply in full with obligations ensuing from this article.

Article 23. Construction site organisation

- 23.1 The contractor will exclusively comply with 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 instruct its workers effectively and demonstrably on the applicable construction site rules.
- 23.2 The contractor will follow the instructions of the labour inspectorate as well as any adviser hired 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 Generally or locally recognised rest days, (public) holidays or other days off set or to be set in accordance with a collective labour agreement or prescribed by the government also apply to the contractor and its employees who carry out work at the worksite. Any additional costs incurred by the contractor as a result will not be recoverable from the client. The latter also applies if the services of the contractor cannot be used due to strikes at the client or at third parties, including the principal.
- 23.4 The work/deliveries by the contractor will take place in accordance with the execution schedule within the working hours applicable at the construction site, whereby the (employees of the) contractor will observe the holiday, work and rest times of the client. If the client wishes work to continue during the winter season, the contractor will cooperate therein.
- 23.6 The client will have the right to deny workers access to the construction site or to have them removed on account of violation of the construction site rules and/or unsuitability, disorder, misconduct, etc.
- 23.7 Unless the contractor or its authorised representative is present at the worksite, the presence is always required of a person who has been ordered to follow orders and instructions from or on behalf of the client and to pass these on immediately to the contractor or its authorised representative. The name of this person will be made known to the client's site manager. This person will report to the client's site manager upon commencement, 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 employees. Disposal of the released rubble, etc., will take place in 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 be carried out 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 ensure the cleaning of the (heating) huts, as well as the supply of drinking water, coffee and tea to its employees.
- 23.11 Only with the written permission of the client will the contractor be permitted to apply advertising stating its name, company and logo on the construction site. The advertising as well as its application requires the approval of the client.
- 23.12 The contractor will have its employees wear uniform and recognisable company clothing.

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 terms and 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 performance of the project, of which the assignment to the contractor forms part, will be available for inspection by the contractor.
- 24.4 Unless agreed otherwise, the contractor will arrange 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 to be engaged by it have access to this information.
- 24.5 The contractor declares to be in possession of all diplomas/certificates required by law and, if applicable, by local regulations for the performance of the work as described; copies thereof 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 the workers and third parties under its supervision. The contractor will take the required measures in accordance with the statutory regulations applicable to this work, as well as to strictly comply with instructions, requirements and instructions from the client, the manager or government bodies such as the labour inspectorate.
- 25.2 The contractor will take such measures that no soil contamination and/or environmental damage will occur on the construction site during the supply and removal of equipment and/or materials or, as the case may be, during the performance of its work. However, should soil contamination and/or environmental damage nevertheless occur as a result of unforeseeable calamities, the contractor will immediately take appropriate measures and report this contamination to the client, and also restore the original situation at its expense. The contractor will indemnify the client against claims by third parties in this respect.
- 25.3 The contractor will perform its work in accordance with the applicable environmental regulations and statutory requirements and will be deemed to be prepared for and to act in the event 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 immediately report this verbally to the client. No later than 12 hours after the accident, near-accident or environmental incident has occurred, the contractor will report this to the the (project manager of the) client by email. The contractor will inform the client on its own initiative and on first request. Furthermore, at the client's first request, the contractor will provide all necessary cooperation with regard to resolving the matter.
- 25.4 In accordance with Dutch legislation and regulations, companies are obliged to register hazardous substances. These companies must also provide information about 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 promptly, unambiguously and in

- writing upon delivery of building materials/materials. If necessary, at the first request of the client.
- 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") (at least the possible successor of that Directive) which are imported, distributed or used in the European Union. The contractor guarantees that, if and to the extent applicable, the delivered goods 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 fully comply with these regulations.
- 25.6 The contractor guarantees that its engaged workers will comply strictly with all construction site rules and safety regulations, such as those arising from the law and the client's Health, Safety and Environmental Plan for the project ("HSE plan"). Unless otherwise agreed, the contractor will provide the client with the HSE plan completed and signed within 8 days after the assignment has been issued.
- 25.7 The contractor will provide the personal protective equipment, as well as the inspection of critical equipment (equipment and tools as included in the HSE Checklist for Contractors V.C.A.). The contractor will provide or participate in toolbox meetings (periodic safety instructions). The contractor and its employees will attend these toolbox meetings. The contractor is responsible for carrying out and complying with the rules and regulations applicable to the work.
- 25.8 Workers employed by the contractor at the work site will immediately and conscientiously comply with instructions and instructions given by or on behalf of the client regarding working conditions and safety at and around the work site, as well as such instructions and instructions from the working conditions of service, the labour inspectorate and any external advisors engaged by the client.
- 25.9 The site manager of the contractor will report to the site manager of the client at all times prior to commencement of the work on the project.
- 25.10 In the event that the contractor or the worker fails to comply with one or more of the obligations or conduct described in the previous paragraph, the client will be entitled to remove that worker from the project or the work and to deny him further access.
- 25.11 If so-called winter facilities are used, the contractor will cooperate in measures to prevent time lost in accordance with the *Weerverletbestrijding Bureau* of the *Technisch Bureau Bouwnijverheid*, or at least its successor.
- 25.12 The contractor will be in possession of an SCC* or SCC** certificate and the workers deployed by the Contractor will at least have a Basic SCC. If the contractor does not have a SCC* or SCC** certificate, the contractor must demonstrate that its business operations are equivalent to an SCC-certified safety management system.

Article 26. Privacy

- 26.1 If in the performance of the agreement personal data is shared between the client and the contractor, the parties will comply with the requirements arising from the applicable privacy legislation. The contractor will inform the client in writing of the manner in which the contractor complies with the applicable privacy legislation.

- 26.2 In order to protect any personal data received by the contractor from the client, the contractor will take adequate measures to protect such personal data.
- 26.3 The client will be entitled to store, process and (re)use all information obtained by the client during the performance of the agreement.
- 26.4 With regard to the data provided by the contractor to the client, the contractor guarantees that these have been lawfully obtained and made available. The contractor also guarantees that these data do not infringe the rights of third parties. The contractor indemnifies the client against all claims of third parties (including government agencies) in this respect.

Article 27. Inspection and approval

- 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 or the work (in progress) - including the materials used for that purpose. In that case the contractor will provide such assistance as may reasonably be required for that purpose.
- 27.2 The costs of this inspection will be borne by the contractor in the event that the goods/work are rejected by the client and/or the principal and/or the manager of the work. Rejection will only be possible if the inspected goods/work do not comply with what has been stipulated in or pursuant to the agreement.
- 27.3 Inspection or approval does not release the contractor from any guarantee or liability, as it ensues from the agreement or the law.

Article 28. Termination

- 28.1 Any term agreed between the client and the contractor for the fulfilment of the contractor's obligations will be a deadline, unless otherwise agreed in writing. The contractor will be in default by the mere expiry of the term. Reminders sent by the client to the contractor will not detract from this.
- 28.2 Without prejudice to the client's rights under the law, the client has the right to terminate the agreement in whole or in part without written notice of default or legal intervention in any of the cases to be reported, 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 on time or in full;
 - b. in the event of (an application for) (i) bankruptcy, (ii) (provisional) suspension of payments, (iii) debt rescheduling, (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 assets are put into administration;
 - d. if the contractor transfers all or part of its business or the control thereof, ceases all or part of its business, or there is otherwise a cessation of business operations;
 - e. if the contractor's business or part of its business is subject to prejudgment or execution attachment;
 - f. if the contractor is unable to fulfil its obligations under the agreement due to force majeure;
 - g. if the contractor dies;
 - i. if the contractor violates any statutory regulation, or if a fine or any other measure is imposed on the contractor.
 - j. on 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. 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 giving 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 on the basis of 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:
- at the contractor's expense, return to the contractor the goods already delivered but no longer to be used or undo the work already carried out and reclaim the payments already made for said goods/work;
 - possibly after written notification, complete the agreement itself or have it completed by third parties making use of the goods/work already delivered 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 has the right to charge the actual damage and set it off against the contractor's claims.

Article 29. Rights of suspension

- 29.1 The client will be entitled to suspend its payment obligations if the contractor fails or threatens to fail to fulfil its obligations, regardless of whether such failure is attributable.
- 29.2 If, on the basis of the circumstances known to the client at that time, the client reasonably believed that it was entitled to suspend its obligations, the client will not be obliged to pay any compensation if it should subsequently become 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 to the extent necessary also pledging) is excluded as referred to in Section 3:83(2) of the Dutch Civil Code, which exclusion has effect under property law.

Article 31. Penalty clause; discounts

- 31.1 For each breach by the contractor of an obligation described 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 compliance 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, on account of the late delivery of goods as referred to in Article 35 (Time of delivery) or late delivery of work as referred to in Article 39 (Commencement and delivery of the work; instalments), impose discounts on the agreed price on the contractor. 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 compliance 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 therefrom, will be settled by the competent court in 's-Hertogenbosch (district of Oost-Brabant). The contractor remains authorised to submit a dispute to the court which has jurisdiction according to the law.
- 32.2 The above is without prejudice to the possibility for both parties to request the 's-Hertogenbosch District Court (district of Oost-Brabant) in preliminary relief proceedings to provide interim relief or to take prejudgment measures.
- 32.3 The agreement is exclusively governed 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 2010). The goods will therefore be transported at the contractor's risk and expense.
- 33.2 Breakage and/or damage caused during loading, transport and/or unloading and bags will be at the contractor's expense.
- 33.3 Loading and unloading outside of the client's normal working hours may only take place after prior written approval, unless stipulated otherwise in the agreement.
- 33.4 The goods will be packaged properly and in an environmental friendly manner. The contractor will be liable for damage to persons or goods caused by inadequate packaging and/or damage or destruction of this packaging. The contractor will return the (transport) packaging materials at the client's first request at its own expense. The client will at all times be entitled to return the (transport) packaging materials to the contractor at the contractor's risk and expense.

Article 34. Place of delivery

- 34.1 The contractor will deliver the goods at the location stated in the agreement. If no such place has been agreed, delivery will take place at the construction site, with the exact place of delivery at the construction site being determined on the client's instructions.
- 34.2 If, prior to delivery, the client requires the goods to be delivered to a location other than that agreed, the contractor will comply therewith in so far as this can reasonably be required of it.

Article 35. Time of delivery

- 35.1 Deliveries will take place at the time specified in the agreement or in accordance with the planning provided by the client. If the delivery time is exceeded, the contractor will be in default without further notice of default and will, at the client's first request compensate all damage suffered by the client as a result.
- 35.2 The contractor will be bound by the time of delivery or the delivery schedule set out in the agreement, on the understanding that the client will be entitled to further determine the time or schedule of delivery on a call-off basis in line with the progress of the work, without this entitling the contractor to a change in price or any other form of compensation.
- 35.3 If the progress of the work so requires, the client will also be entitled to determine the sequence of the deliveries to be made by the contractor, even if a certain sequence is provided for in the agreement.
- 35.4 If, for any reason whatsoever, the client is unable to take receipt of the goods at the agreed time via the established schedule, the contractor will keep and secure the goods and take all reasonable measures to prevent deterioration in quality until they have been delivered.
- 35.5 If the contractor is unable to complete its contractual performance at the time stated in the agreement or in accordance with the delivery schedule laid down by the client, it will inform the client thereof immediately.
- 35.6 The contractor will be liable towards the client for any penalties or discounts on the contract price which are given to the client by the principal and/or the manager on account of late delivery of (parts of) the Work as a result of a delay attributable to the contractor. The client has the right to recover these penalties or discounts from the contractor, possibly by deduction from the payments that the client still owes to the contractor.
- 35.7 Without prejudice to the client's right to claim fulfilment of the agreement, possibly with compensation, at its discretion and assessment, 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 terms and conditions, without being obliged to pay compensation and costs.
- 35.8 The contractor will have the delivered goods accompanied by all necessary documentation intended for the proper use of the delivered goods, as well as any inspection, test and inspection reports and guarantee certificates.
- 35.9 Partial deliveries will only be permitted with the written permission of the client.

Article 36. Transfer of ownership; risk, acceptance, property 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 them, obtained them 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 have been received by the client at the agreed place of delivery. The delivered goods will be at the contractor's risk until such time as they have been taken receipt of by the client.

- 36.2 Goods made available by the client will under all circumstances be and remain the property of the client and as such will be marked and individualised by the contractor in a manner recognisable to third parties; such 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. At the client's first request, the contractor will identify the goods in question and return these to the client.
- 36.3 In the event of rejection by the client of the delivered goods, these goods will remain the property of the contractor and the risk will also be deemed to have remained with the contractor and therefore never to have passed to the client. In that case, the client will not be obliged to fulfil its obligations under the agreement. In that case, the contractor will credit the client for amounts already charged and will immediately repay amounts already paid by the client.

Article 37. Acceptance and refusal

- 37.1 The delivery will not be deemed to have been accepted by the client until the delivery has been approved by the client and the principal. The delivery is only final once 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 will have the authority to reject the delivered goods, so that all other terms within which a complaint must be made, if and insofar as they may be applied by the contractor, will not apply to the client.
- 37.2 In the event of rejection, the client will immediately inform the contractor. The contractor will, at client's first request, immediately repair, replace and/or remove the rejected goods or any part thereof at its own expense without the client being obliged to pay any additional compensation, without prejudice to the contractor's obligation to compensate the client or third parties for any damage, including damage caused by delay. In the absence of repair, replacement and/or removal of the rejected items, 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 to (partially) terminate the agreement at its discretion and to claim possible damages, 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 the client, 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 commercial goods become surplus to requirements 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 recovered by the contractor at the invoiced price.
- 38.2 Unless otherwise agreed in writing, the packaging of the goods delivered by the contractor and to be recovered will not be paid 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 (EXECUTION OF WORK)

Article 39. Commencement and completion of work; instalments

- 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 on which the contractor will commence work, the client will determine this. The contractor will perform the work in accordance with the time schedule received from the client and deliver the work at the time specified in the agreement.
- 39.2 The work will be deemed to have been delivered if it has been inspected and approved in accordance with the provisions of Article 40 (Inspection and approval).
- 39.3 The work is at the contractor's risk and expense up to and including the date of delivery.
- 39.4 The client is entitled to change the sequence of the work to be performed if it deems this desirable in connection with building progress, without being obliged to pay compensation for damage and costs.
- 39.5 If the contractor is unable to complete its work at the agreed time or within the agreed time schedule, it will inform the client thereof immediately 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 due to 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 penalties and discounts in full (even if the shortcoming concerns only part of the total work) from the contractor, for example by withholding from the payments that the client still owes to the contractor.
- 39.7 Without prejudice to the client's right to claim fulfilment of the agreement, possibly with compensation, at its discretion and assessment, the client is entitled to terminate the agreement in accordance with Article 28 (Termination) of these general terms and 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 good and sound work, as set by the client and/or the principal and/or the manager, and in accordance with the provisions of the agreement.
- 40.2 Inspection of the work will take place at a date and time specified 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 it has been approved, in the latter case stating the reasons for the withholding of approval. The notification will be in writing, unless agreed otherwise.
- 40.4 The reinspection after withholding approval will take place 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 client's right to terminate the agreement and compensation for damage and costs incurred as a result.
- 40.6 Inspection 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 In the event of rejection of the work or part thereof, the client will furthermore be entitled to suspend payment of the price relating to this work or part thereof.

Article 41. Contract variations

- 41.1 Additional work may only be carried out after approval by and after a written assignment from the client. The client is only obliged to pay for additional work commissioned by it in writing. In accordance with the planning, or if nothing is stipulated therein after completion of the work, the contractor will provide a written overview of the additional work commissioned and carried out in writing. Unless otherwise agreed, the client will in accordance with its planning and after approval of the statement provided by the contractor, issue a purchase order to the contractor for additional work. This purchase order will only be issued if the principal grants approval and the client issues an assignment for the additional work. Invoicing and payment of additional work will take place in accordance with Articles 14 (Invoicing) and 15 (Payment and final settlement) with the final settlement. Less work is determined in mutual consultation between the client and the contractor. Unless otherwise agreed, the settlement of the less work will take place at once with the final invoice.
- 41.2 Additional work 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 contract variations, without prejudice to the other provisions of this article and unless otherwise agreed in writing.
- 41.4 Quantities are not adjustable, unless the agreement explicitly states that they are adjustable quantities. The quantities stated in the agreement are stated as accurately as possible and, without the contractor being entitled to demand a price adjustment per unit, will be delivered with an upward or downward adjustment as required for the work.

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 12 months. Without prejudice to the foregoing, the contractor's maintenance period will be 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 appear during the maintenance period at the client's first notice at its own expense, to the client's satisfaction and within a reasonable period to be set by the client.
- 42.3 After expiry of the maintenance period, the work will, at the client's request, again be inspected in order to

establish whether the contractor has fulfilled its obligations.

- 42.4 The client will be entitled to transfer all claims it has against the contractor pursuant to the maintenance period to the principal (or another third party to be designated by the client). The contractor grants its consent to such a transfer in advance.