

CONDITIONS

General Purchasing and Subcontracting Terms and Conditions

General Purchasing and Subcontracting Terms and Conditions of Heijmans N.V. and the companies affiliated with it in a group as referred to in Section 24b, Book 2 of the Dutch Civil Code.

Filed by Chamber of Commerce on 15 December 2016.

If there is any inconsistency between this translation and the Dutch text of the 'Algemene Inkoop- en Onderaannemingsvoorwaarden (A.I.O.V.)' (15 December 2016), the Dutch text will prevail.

I GENERAL SECTION

General

Article 1: Definition and applicability

- 1.1 The following terms have the stated meaning in these general terms and conditions:
- **'Client'**: Heijmans N.V. and/or one or more of its subsidiaries.
 - **'Contractor'**: any natural person with whom or legal entity with which the Client negotiates regarding the formation of a Contract and/or with whom or which the Client enters into a Contract.
 - **'Principal'**: the Client according to the Main Building Contract.
 - **'Site Management'**: the management according to the Main Building Contract.
 - **'Contract'**: any contract between the Client and Contractor.
 - **'Main Contract'**: the Contract between the Client and the Principal.
 - **'Project'**: the assignment as described in the Main Building Contract.
 - **'Work'**: all work that the Contractor must perform under the Contract.
 - **'Supply of Goods'**: the supply of goods including all activities and services relating to the Supply of Goods, insofar as these do not fall under the definition of 'Performance of Work'.
 - **'Performance of Work'**: the performance of design and/or implementation activities, including the creation of a tangible work and/or the performance of services, whether or not linked to the Supply of Goods, and which does not constitute an employment contract.
- 1.2 If the Contract relates to the Supply of Goods, the provisions of the special section on purchasing conditions (II A) will apply in addition to the general section (I). In case of inconsistency, the provisions of the special section on purchasing conditions will take precedence.
- 1.3 If the Contract relates to the Performance of Work, the provisions of the special section on subcontracting conditions (II B) will apply in addition to the general section (I). In case of inconsistency, the provisions of the special section on subcontracting conditions will take precedence.

Heijmans' core values

Article 2: Integrity and sustainability

- 2.1 During the performance of the Contract, the Contractor, as well as the companies affiliated with it in a group as referred to in Section 24b, Book 2 of the Dutch Civil Code, its employees, and the subcontractors, workers and suppliers that it hires must observe the rules that are laid down in the prevailing Heijmans code of conduct ('Code of Conduct') and act in accordance with the principles and requirements of the 'Sustainability Declaration', both of which are published on the website www.heijmans.nl, and will be sent on request.
- 2.2 If there is a serious suspicion of conduct contrary to the Code of Conduct and/or the Sustainability Declaration, the Client will be entitled to arrange for an independent party to perform an audit. The Contractor must cooperate for this purpose and ensure that the parties and persons referred to in Article 2.1 also cooperate. If the audit findings show that conduct has been contrary to the Code of Conduct and/or the Sustainability Declaration, the Contractor must immediately ensure that it and/or the parties and persons referred to in Article 2.1 once again act in accordance with the Code of Conduct and/or the Sustainability Declaration, and the Contractor will assume responsibility for any damage, including the costs of the above audit. Acts that are contrary to the Code of Conduct and/or the Sustainability Declaration are regarded as a material breach.

Article 3: Safety and the environment

- 3.1 The Contractor must do everything to guarantee the safety of project employees, chain partners and the environment of the Project, as well as raise safety awareness. The Contractor must also encourage all involved to be pro-active with regard to safety. The Contractor must ensure that it, its employees, and the subcontractors, workers and

suppliers that it hires, act in accordance with the Heijmans rules of conduct and behaviour and the safety rules as laid down in the HSWE manual. These can be consulted at www.geenongevallen.nl.

- 3.2 The Contractor is obliged to strictly comply with the instructions, requirements and directions of the Client, the Site Management or government agencies such as the Health & Safety Inspectorate.
- 3.3 The Contractor declares that it is in possession of the 'SCC*' (VCA*) or 'SCC**' (VCA**) certificate. Copies of the certificate must be handed to the Client before the commencement of the Work.
- 3.4 The Contractor must arrange or participate in toolbox meetings (periodic safety instructions) and ensure that the rules and regulations applicable to the Project are implemented and observed.
- 3.5 The Contractor declares that it is in possession of all certificates that are required by law and, if applicable, by local regulations for the performance of the Work. Copies must be provided to the Client immediately on request.
- 3.6 The Contractor is obliged to adopt such measures that no soil contamination and/or environmental damage will occur on the construction site during the transport of equipment and/or materials to and from the site or during the performance of the Work. If soil contamination and/or environmental damage nevertheless occur, the Contractor undertakes to immediately adopt appropriate measures, to report this contamination to the Client, and to restore the site to its original condition at its own expense. The Contractor indemnifies the Client against third-party claims in this regard.
- 3.7 If the Contractor fails to comply with one or more of the obligations or rules of conduct as described in the previous paragraphs, the Client will be entitled to send the person whose conduct is involved away from the Project and deny him further access.

Contract

Article 4: Formation and content of the Contract

- 4.1 The Contractor's offer is valid for a period of six weeks. If the Contractor submits its offer as part of the Client's participation in a tender procedure, its offer will be valid for six months after the award of the Project by the Principal to the Client.
- 4.2 The Contractor must sign and return the Contract that has been formed by agreement, without any alterations, to the Client within 14 days of the Contract having been sent to it. If the Contractor fails to return the Contract within the aforementioned period and does not make any objection to the content thereof within that period or commence with its performance, the Contract will be deemed to have been accepted on the conditions mentioned therein, pursuant to these general terms and conditions.
- 4.3 The following provisions apply to all Contracts of the Client as though included verbatim therein (on the understanding that 'Principal' must be read as 'Client' and 'Contractor' must be read as contractor under the Main Contract):
- a. all technical and administrative provisions of the applicable specifications, report and/or statement of on-site information or similar changes to the specifications relating to the Main Building Contract;
 - b. all other provisions by which the Client is bound under the Main Building Contract towards the Site Management and/or the Principal, insofar as these relate directly or indirectly to the Contract and if and insofar as the Contractor could have examined these provisions prior to the formation of the Contract.
- The provisions of the Contract will take precedence over the provisions of paragraphs a and b at all times.
- 4.4 The Contractor may examine the technical and administrative provisions of the specifications, the accompanying drawings, report and/or statement of on-site information, explanatory notes, additions and other relevant documents applicable to the Work at the Client. If requested, copies of these documents will be provided to the Contractor. The Contractor is deemed to have examined the above documents as well as having obtained all other information that it requires.

Rights and obligations of the Contractor

Article 5: Obligation to warn

- 5.1 The Contractor is obliged to warn the Client in writing if information, data, schedules, working methods, instructions and similar documents, provided by or on behalf of the Client, or decisions taken by or on behalf of the Client, contain errors or are defective if it suspects that such errors or defects exist. If the Contractor fails to give the written notice as referred to in the previous sentence, it will be liable for the harmful consequences of its omission.

Article 6: Confidentiality

- 6.1 The Contractor undertakes to observe confidentiality towards third parties concerning the content of the Contract and all information and items developed in that regard, including structures, schemes, other business information and know-how, in the broadest sense.
- 6.2 The Contractor must impose the same duty of confidentiality in writing on the personnel that it involves in and/or the third parties that it hires for the performance of the Contract.
- 6.3 The obligations arising from this article also extend beyond the termination of the Contract.

Article 7: Non-compete clause

- 7.1 The Contractor must refrain from submitting estimates and/or offers directly to the Principal in relation to the Project for which the Client is conducting negotiations with the Principal or for which a Main Building Contract has been or will be concluded.

Article 8: Outsourcing and hiring

- 8.1 The Contractor may not outsource all or part of the Contract to a third party or make use of hired workers without the Client's prior written consent. Conditions may be attached to such consent.
- 8.2 If workers are hired, as referred to in the previous paragraph, the Contractor will be obliged to comply strictly with the conditions as referred to in Article 18, in order to be indemnified against any recipients' liability (Section 34 of the Dutch Collection of State Taxes Act (*Invoeringswet*), 1990). The Contractor's obligation to indemnify, as referred to in Article 18.1, applies in this case.
- 8.3 If the Contractor instructs another party to perform its Work after having obtained consent for this purpose, it must immediately draw up a written contract for that purpose, of which the conditions of this Contract must form part, in such a manner that the Contractor assumes the legal position of the Client and the supplier/subcontractor assumes the legal position of the Contractor.

Article 9: Insurance

- 9.1 The Contractor is obliged to take out adequate insurance, with minimum cover of €2,500,000 for each incident/claim, to cover its design and other forms of liability, failing which the Client will be entitled to annul the Contract, notwithstanding its other rights. The insurance of its liability does not affect the Contractor's contractual or statutory liability.
- 9.2 If several insurance policies apply to a claim, the professional indemnity insurance of the Contractor will at all times take precedence over those other insurance policies.
- 9.3 In case of the delivery or use of motor vehicles and other rolling stock, the Contractor must insure the risk of liability for damage towards the Client and/or third parties in accordance with statutory requirements and with due observance of the applicable specifications and/or other contractual provisions. The insurance policies must comply with the following conditions, among others:
- a. the Client must be mentioned in the policy as a co-insured party of the Contractor in relation to the Contract;
 - b. the motor vehicle and work equipment insurance may not include any exclusions with regard to what is known as operational risk and/or damage to underground items, including but not limited to cables and ducts.
- 9.4 In case of incompatibility 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 take precedence. In other words, the Contractor cannot rely on the requirements set by the Principal.
- 9.5 The Contractor is obliged to comply with the policy obligations as these are or will be recorded in the insurance taken out by the Client and/or Principal. If the Contractor is in breach hereof, the Client will be entitled to fulfil these obligations on behalf and at the expense of the Contractor.
- 9.6 Claims against any insurance taken out by the Client (or the Principal) will arise only once the Client (or the Principal) has given a statement for that purpose to the insurer(s) concerned.
- 9.7 The excess of any insurance is payable in full by the Contractor insofar as the damage is at the Contractor's expense or risk.

Article 10: Certificates

- 10.1 If the Contract requires warranty or other certificates, attestations and/or instruction books, etc., the Contractor must ensure that these items are in the Client's possession no later than two weeks after the completion of the Work, unless an earlier period is mentioned in the Contract.

Article 11: Warranty and conformity

- 11.1 Notwithstanding its contractual or statutory liability, the Contractor warrants for the period stipulated in the Contract, in the absence of which a five-year period will apply, that the Work, including the items used for that purpose, will at least be:
- a. of good quality and without any design, construction, assembly or material defects; and
 - b. compliant with the provisions of the Contract (and the accompanying documents, including those mentioned in Article 4.3 of these terms and conditions), is suitable for the intended purpose and conforms to the requirements laid down for that purpose in the Contract and by or on behalf of the government; and of sound material and properly performed by competent people under expert supervision, according to the drawings and specifications in all aspects and, if applicable, at least be equivalent to the samples or models made available or shown by the Contractor to the Client.
- The goods and/or work delivered must moreover be fully capable of functioning as intended, as well as comply with all standards, quality marks, legislation and government rules applicable at the time of the formation of the Contract and at the time of actual delivery (as soon as the Client takes receipt of the goods or work at the agreed place of delivery).
- 11.2 The provisions of paragraph 1 of this article apply on the understanding that, if the Client makes it known before placing the assignment that it is bound towards the Principal, on the basis of the applicable specifications, to provide a specific warranty for the Work, the Contractor will be obliged to provide the same warranty to the Client, unless the factory warranty is more comprehensive than the aforementioned warranty, in which case the factory warranty will apply.
- 11.3 The warranties as referred to in paragraphs 1 and 2 of this article apply (i) in case of the Supply of Goods, from the date of delivery, (ii) in case of subcontracting, from the date of

the handover of the Project (or handover of part of that Work) by the Client to the Principal, and (iii) in case of supplied technical components and systems, in particular, from the date that these are put into use or operation.

- 11.4 Notwithstanding the other claims of the Client, the Contractor must repair all defects arising during the warranty period, as soon as possible, at its own expense immediately upon the request of and in consultation with the Client.
- 11.5 After any replacement or repairs within the warranty period, the agreed warranty will start again for the relevant part of the goods and/or work delivered.
- 11.6 The Contractor is obliged to organise and set up its business in such a way that the origin of every part and/or component of the delivery can be traced, among other things, on the basis of production and history of origin.

Article 12: Price and quantity

- 12.1 Unless otherwise agreed in writing, all prices are fixed. Unless otherwise agreed, no set off will take place due to any increase in wages, prices and other cost-increasing factors.
- 12.2 All prices are for the carriage-paid delivery of the goods and include all import and export duties, other levies and taxes and costs of insurance, excluding VAT. Currency differences (i.e. differences in the exchange rate between the time of ordering and the time of delivery/invoicing) have no influence on the price.
- 12.3 Unless the Contract expressly makes provision for offsettable quantities, the quantities mentioned therein are stated as accurately as possible and must be delivered in such greater or smaller quantities as is required for the Project, without the Contractor being entitled to request a price adjustment for each unit.
- 12.4 The Contractor may request compensation of cost-increasing factors only if and insofar as the Client has the same recourse against the Principal.

Article 13: Invoicing

- 13.1 Invoices to be sent by the Contractor to the Client must comply with the requirements laid down by or pursuant to the Dutch Turnover Tax Act (*Wet op de Omzetbelasting*), 1968.
- 13.2 If Section(s) 34 and/or 35 of the Dutch Collection of State Taxes Act (*Invoeringswet*), 1990 is/are applicable, the Contractor must include at least the following details on the signed and numbered invoice in a clear and well-organised manner:
- a. the contract number/SAP number;
 - b. the Project and the Project number;
 - c. the time period and performance rendered to which the invoice relates;
 - d. the amount included in the invoiced amount for wages;
 - e. the name, address and place of business of the Contractor;
 - f. the VAT number of the Contractor;
 - g. an indication as to whether or not the reverse charge mechanism (as referred to in Section 24b of the Turnover Tax (Implementation) Decree (*Uitvoeringsbesluit Omzetbelasting*), 1968) is applicable. If applicable, the words 'VAT reverse-charged' must be mentioned. If not applicable, the amount of the VAT must be mentioned;
 - h. the number of the Contractor's G account, as referred to in Article 18.4t (Vicarious Tax Liability/Recipients' Liability).
- 13.3 The Contractor's invoices must be submitted mentioning the Project, project/order or contract number allocated by the Client as well as the date of the assignment. Unless another form of invoicing is agreed in writing, the invoice must be submitted to the branch/district office of the relevant subsidiary that is acting as the Client.
- 13.4 Invoices must be accompanied by the goods receipts, time sheets (expressed in man-days) or MUIS (accounting software) entry, signed for approval by the Client's authorised representative.
- 13.5 The Contractor is not entitled to add a late payment surcharge to the invoice.
- 13.6 If requested, the Contractor is obliged to provide the Client with all information needed for its records or those of the Principal free of charge.
- 13.7 The Contractor must provide the required security immediately on request of the Client.
- 13.8 Invoices that do not comply with the requirements as set out in the preceding paragraphs of this article will be returned unpaid without having been processed.

Article 14: Equipment and materials

- 14.1 Unless otherwise agreed in writing, the Contractor must supply and arrange all equipment and materials required for the Work to be performed, including scaffolding, aerial platforms, etc. All transport of materials and equipment is at the Contractor's expense and risk.
- 14.2 The Contractor may make use of the Client's equipment only with the Client's consent. Such use is at the Contractor's expense and risk. The Contractor must indemnify the Client against third-party claims in this regard.
- 14.3 If and insofar as materials needed for the Work must be delivered by the Client, these materials will be delivered when called for by the Contractor. The Contractor must care for these materials at its own expense and risk. The Contractor must ensure that the materials are correctly received, stored and transported on the Project and arrange any returns.

Article 15: Permits

- 15.1 The Contractor must arrange the permits for the performance of its Work as set out in the Main Building Contract.
- 15.2 The Contractor must comply with and observe the rules as stipulated in the permits granted for the Project.

Article 16: Organisation of the construction site

- 16.1 The Contractor is obliged to only follow orders and instructions given by the Client. The Client may however request the Principal (or its authorised representative) in writing, after consultation with the Contractor, to give its orders and instructions directly to the Contractor.

- 16.2 Days of rest, public holidays, vacation days or other days off as may be determined now or in the future and which are generally recognised, recognised locally on the Project or are otherwise prescribed by the government or pursuant to a collective bargaining agreement also apply to the Contractor and its employees who perform Work on the Project. The Contractor will not be able to recover any additional costs from the Client in this regard. This also applies if the services of the Contractor cannot be used because of industrial action at the Client or at third parties, including the Principal.
- 16.3 The Work to be carried out by the Contractor must take place within the working hours that apply on the construction site. The Contractor must adapt to the vacation, working and shift times of the Client. If the Client requires work to continue through the winter season, the Contractor must cooperate in this regard.
- 16.4 The names (including citizen service number, nationality, ID number, type of ID and expiry date) of the workers employed by the Contractor on the Project must be communicated to the works foreman of the Project concerned in good time and before they enter the construction site. The Contractor must ensure that each person is registered. The Contractor will receive an invitation and accompanying link for this purpose (no later than one week before work commences). If registration is not completed, or is not fully completed, access to the construction site may be denied.
- 16.5 The Client is entitled to refuse employees of the Contractor access to the construction site and/or to have them removed from the construction site on account of any failure to identify themselves, unsuitability, disturbance of the peace, misconduct, etc.
- 16.6 There must always be a person present during the performance of its Work on the Contractor's behalf who is charged with following the orders and instructions given by or on behalf of the Client and communicating these immediately to the Contractor. The name of this person must be communicated to the Client's works foreman and any Site Management on the construction site. This person must report to the Client's works foreman upon the commencement, interruption or termination of the Work.
- 16.7 The Contractor must cooperate in keeping the construction site clean and tidy. The Contractor is specifically obliged, at its own expense, to clear up all rubble and building waste that is produced during its Work, including used packaging material, tools and equipment, as well as any remaining materials and consumables, in a legal and proper manner and in accordance with the instructions for the separation of waste which the Client has specifically imposed. Unless otherwise agreed in writing, the Contractor's own containers must be used for clearing up rubble, etc.
- 16.8 Any parking charges are payable by the Contractor.
- 16.9 In case of so-called winter arrangements, the Contractor is obliged to cooperate in measures aimed at controlling work stoppages in accordance with the Department for Controlling Weather-Related Work Stoppages (*Bureau Weerverletbestrijding*) of the Technical Office for the Construction Industry (*Technisch Bureau Bouwnijverheid*).

Article 17: Assignment and Pledge of Claims

- 17.1 The Contractor cannot assign, pledge or otherwise encumber or transfer claims to third parties that it has or will acquire pursuant to a Contract with the Client (including any amounts owing in social security contributions, income tax and national insurance contributions deducted at source that are included in the price, for which the Client is statutorily liable). The Contractor's claims against the Client therefore cannot be transferred under property law and consequently cannot be pledged within the meaning of Section 83(2), Book 3 or Section 98, Book 3 in conjunction with Section 83(2), Book 3, all of the Dutch Civil Code.
- 17.2 The Contractor is entitled to request the Client at any time to cancel the non-transferability under property law of a clearly determined and defined claim or claims. The non-transferability of the clearly determined and defined claim or claims is cancelled only after this has been confirmed in writing by the Client.

Article 18: Various laws and regulations

- 18.1 The Contractor is obliged to comply with all rules of the Foreign Nationals (Employment) Act (*Wet arbeid vreemdelingen – Wav*), the Placement of Personnel by Intermediaries Act (*Wet allocatie arbeidskrachten intermediairs – WAADI*), the Labour Market Fraud (Bogus Schemes) Act (*Wet aanpak Schijnconstructies – WAS*) and the Compulsory Identification Act (*Wet op de identificatieplicht – WID*). The Contractor indemnifies the Client against any fines and/or sanctions and/or damage (such as loss of income or claims from the Principal and/or third parties) due to the contravention of these statutory rules.
- 18.2 The Contractor undertakes to comply with and observe all relevant standards and rules in the performance of the Work.
- 18.3 The Contractor warrants that it will comply with the collective bargaining agreements that apply to it and with all statutory obligations to withhold social security contributions, income tax and national insurance contributions (including under the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid*)).
- 18.4 As part of its compliance with the aforementioned Act and its recipients' liability, the Contractor must ensure that a G account is available at all times.
- 18.5 The Contractor's obligations include:
- providing proof, at the Client's request, of its entry in the Commercial Register, its VAT number and the number of its licence to establish a business if this is required for the running of its business;
 - handing over a list of all people who are directly or indirectly employed by it, at the Client's request, before the employees commence the Work;
 - submitting a man-days register, signed by the works foreman, each week for the work entrusted to it. In case of foreign workers, the Contractor is obliged to apply for a Dutch citizen service number for each worker and to provide this to the Client if liability to pay tax in the Netherlands arises;
 - providing a declaration to the Client every three months, or as more frequently as the Client requires, regarding its withholding of income tax and social security contributions. If the Contractor is a member of the Labour Standards Association (*Stichting Normering Arbeid*), a copy of the latest NEN-4400 certificate will suffice;

e indemnifying the Client against its liability towards and fines imposed by the Principal and/or third parties due to the failure by the Contractor to comply with its contractual or statutory obligations.

- 18.6 Payments to be made by the Client to the Contractor will furthermore be made on condition that prior to employment, the Client will be advised if employees from EU countries other than the Netherlands will be employed, mentioning the names and dates of birth of these employees and providing proof (such as an A1 form) that the social security contributions for these employees will be deducted in the other EU country concerned for the duration of the Work. If applicable, a copy of the EHIC (European Health Insurance Card) must also be submitted so that medical care can be provided in the Netherlands.
- 18.7 If the Client can reasonably arrive at the opinion that the Contractor will be liable with regard to the Work for a higher amount in social security contributions, income tax and national insurance contributions than the percentage fixed in the Contract, it may alter that percentage.
- 18.8 If the Client is held liable by law and obliged to pay unpaid contributions, advance contributions, social security and taxes, it will be entitled to recover the entire amount, plus statutory interest from the time it makes payment, from the Contractor.
- 18.9 If the Contractor fails to comply with its obligations towards its employees under the applicable collective bargaining agreements and the Client is held liable to comply with these obligations, the Client will have recourse against the Contractor for the entire amount involved plus statutory interest from the time of payment by the Client.
- 18.10 If the Contractor and/or the third parties that it hires are no longer able to comply with their payment obligations under the law, the Contractor must advise the Client of this fact within five working days of the day on which the inability to pay arises, failing which the Contractor will be in default towards the Client by operation of law. The Client will then be entitled to declare the Contract fully or partially annulled, without the need for any notice of default or judicial intervention, and notwithstanding its right to compensation.
- 18.11 The Contractor warrants that somebody will be available during the Work who can communicate in both Dutch and the relevant foreign language of its workers.
- 18.12 The Contractor's workers must prove that they may work without restrictions or otherwise possess a valid work permit if they are not Dutch nationals, Swiss nationals or nationals of one of the other countries of the European Economic Area (EEA), with the exception of Croatia.
- 18.13 The Contractor's workers must be able to produce a valid identity document and, if applicable, a valid work permit at all times, including in the workplace. The Client may carry out periodic spot checks in this regard. In the absence of a required document, the Client will deny the worker access to the work or remove the worker from the work. The Client will be able to recover all damage that it suffers in this regard from the Contractor.
- 18.14 The Contractor must submit all documents to the Client, including identity documents (if required), of which the Client requires a copy for the purpose of the WID and/or WAV, immediately on request.
- 18.15 The Contractor must record all agreements on employment conditions for the performance of the Work in a readily comprehensible and accessible manner.
- 18.16 The Contractor must allow the competent authorities to examine these agreements on employment conditions on request and cooperate in inspections, audits or wage validation. If it transpires from the audit that the Contractor is not complying with the obligations as set out in the above paragraphs, the costs of the audit, including any related costs, will be payable by the Contractor.
- 18.17 The Contractor must allow the Client or its authorised representative to examine these agreements on employment conditions on request if the Client deems this necessary for the prevention or handling of a wage claim relating to work performed for the purpose of the Work and for detecting any irregularities.
- 18.18 The Contractor indemnifies the Client against all third-party claims for the payment of wages arising from work performed for the purpose of the Work, as well as any fines imposed on the Client and/or third parties in this respect.

Rights and obligations of the Client

Article 19: Set-off

- 19.1 The Client is entitled to set off amounts that it owes to the Contractor under the Contract against claims that it, one of the other subsidiaries of the Heijmans group or a minority interest held by a subsidiary of the Heijmans group, has against the Contractor, including under any other Contract. The Client is not bound in this regard by the contractual ratio of what must be deposited in the Contractor's G account and ordinary account respectively and is therefore entitled to set off the claim in its entirety, or to the extent that it so wishes, against that which it must credit to the Contractor's ordinary account.
- 19.2 By means of a third-party clause in favour of the companies that are affiliated with it in a group, as referred to in Section 24b, Book 2 of the Dutch Civil Code, the Client stipulates that these companies may set off claims that the Client has against the Contractor against claims that the Contractor has against them.

Article 20: Rights to suspend performance

- 20.1 The Contractor confirms that it waives its right to suspend its obligations under the Contract.
- 20.2 Notwithstanding the Client's statutory rights to suspend performance, it is entitled to suspend its payment obligations if the Contractor is in actual or impending breach of performance of its obligations, regardless of whether this breach is attributable to the Contractor.
- 20.3 The Contractor expressly waives its right of retention.

Article 21: Payment and final statement

- 21.1 If the Contractor has complied with all its obligations under the Contract, it may invoice the agreed price to the Client, after which the Client must make payment within 60 (sixty) days.
- 21.2 If the Client fails to make payment within 60 (sixty) days of the invoice referred to in the previous paragraph, the Contractor is at most entitled to claim the statutory interest under Section 119, Book 6 of the Dutch Civil Code and €40.00 in extrajudicial collection costs.
- 21.3 Payment must be made on the basis of an agreed instalment schedule or, in the absence of such an instalment schedule, after the last delivery (in case of the Supply of Goods) or after completion of its Work (in case of Performance of Work). The Client will pay only:
- once the Contractor has satisfactorily delivered the Work or the part thereof to which an instalment payment relates;
 - once it has received an invoice in accordance with the provisions of Article 13 (Invoicing); and
 - once the Contractor has demonstrated, if requested, that it has paid the amounts owing to the employees involved in the Project, as well as the income tax and social security contributions for these employees.
- 21.4 The Contractor must submit its final statement to the Client within four weeks of the completion of its Work. If the Principal and the Client have agreed to a maintenance period, the final statement must be submitted within four weeks of the expiry of that maintenance period.
- 21.5 Notwithstanding the above, payments or invoicing can be done only once the Client has received an unaltered and signed copy of the Contract back from the Contractor.
- 21.6 Payment by the Client for the Work or parts thereof does not release the Contractor from any warranty and/or liability arising from the Contract or by law.
- 21.7 If the Client performs all or part of the Work, or arranges for this to be done by third parties because of the Contractor's breach or inability to do so, the Client will be entitled, at the Contractor's expense, to make a fair payment directly to the subcontractors and suppliers of the Contractor for the Work for which they have not yet received payment. However, the Client will not do so without having first heard from the Contractor. The Client's payment will be deducted from the total amount.

Article 22: Inspections and testing

- 22.1 The Client and/or the Principal and/or the Site Management are entitled to inspect or test the Work at any time. The Contractor must then ensure the availability of such facilities as may be reasonably required for that purpose.
- 22.2 The costs of the inspection and/or testing are payable by the Contractor if the Client and/or the Principal and/or the Site Management reject the Work.
- 22.3 Inspection or approval does not release the Contractor from any warranty or liability under the Contract or by law.

Various

Article 23: Intellectual property

- 23.1 All existing and future intellectual property rights and claims thereto, including but not limited to trademark rights, database rights, know-how and copyright ('the IP rights') in relation to any result arising from or that is created during the performance of the Work or the Contract ('the Result') vest in the Client. Insofar as necessary, the Contractor hereby assigns the IP rights and the claims thereto, in advance and without consideration, to the Client, which accepts the assignment and transfer thereof from the Contractor in advance.
- 23.2 The Client and Contractor expressly acknowledge that Article 23.1 should be regarded as the deed of assignment for all existing and future IP rights to the Result. Insofar as the aforementioned assignment does not result in the assignment of the IP rights to the Client in advance, the Contractor must, immediately on written request of the Client, perform any act for the purpose of assigning the IP rights, including but not limited to signing a written deed of assignment or any document aimed at assigning the IP rights to the Result to the Client. In this regard, the Contractor hereby also grants the Client an irrevocable power of attorney to do everything on its behalf that is necessary for the assignment of the IP rights to the Client.
- 23.3 The Contractor hereby waives its personality rights within the meaning of Article 25 of the Copyright Act (*Auteurswet*).
- 23.4 By way of explanation, but without introducing any restrictions, the parties declare that the assignment under Article 23.1 implies that the Client may use and exploit, or arrange for a third party to exploit, the Result and the related IP rights, in whatever manner or form, without any restrictions being attached thereto.
- 23.5 The Client does not owe any compensation to the Contractor for the assignment of the IP rights. The Contractor is deemed to already be compensated for this assignment in its payment for the Work performed on the instructions of the Client.
- 23.6 All proprietary and IP rights to drawings, calculations, designs/models, working methods, computer files and other information, data carriers and documents (electronic or otherwise) ('the Material'), which the Client has provided to the Contractor under the Contract, vest in the Client. The Contractor must at its own expense return the material to the Client immediately on request of the Client.
- 23.7 The Contractor warrants that the performance of the Contract will not infringe any IP rights of third parties. The Contractor limitlessly indemnifies the Client against third-party claims due to the infringement of these IP rights. The Contractor's obligations arising from this paragraph also extend beyond the termination of the Contract.

Article 24: Liability

- 24.1 The Contractor is liable for damage that the Client or third parties, including the Principal, suffers or suffer in connection with the performance of the Contract.
- 24.2 The Contractor is liable for administrative fines and/or other punitive measures that are imposed on the Client, the Principal and/or third parties due to an act and/or omission of the Contractor.
- 24.3 The Contractor must indemnify the Client against third-party claims in this regard and compensate the Client, if necessary.

Article 25: Annulment/termination

- 25.1 Unless otherwise agreed in writing, every deadline agreed between the Client and the Contractor for the fulfilment of the Contractor's obligations is a strict deadline. The Contractor will be in breach due to the mere expiry of a deadline stipulated in the Contract. This is not affected by demands sent by the Client to the Contractor.
- 25.2 The Contractor will be in breach by operation of law in the following cases and the Client will be entitled, without the need for any notice of default or judicial intervention, to declare the Contract totally or partially annulled or to give notice of termination, notwithstanding the Client's right to compensation and its statutory rights:
- if the Contractor fails to comply, fails to comply punctually or fails to comply fully with one or more of its material contractual obligations, or the Client must infer from a statement made by the Contractor that it will fail to comply with its obligations;
 - if the Main Building Contract is terminated or annulled;
 - in case of one of the following, or a petition for one of the following:
 - bankruptcy,
 - a temporary or permanent moratorium on the payment of debts,
 - partial or total liquidation, or
 - guardianship order,of the Contractor or of the natural person or legal entity that has stood surety or furnished security for the Contractor's obligations;
 - if assets of the Contractor are placed under administration;
 - if the Contractor fully or partially transfers its business, part of its business or the control of its business, fully or partially closes down its business or there is otherwise any cessation of business operations;
 - if pre-judgment attachment or attachment in execution is levied on the Contractor's assets or part of its assets;
 - if the Contractor is unable to fulfil its obligations under the Contract because of force majeure;
 - if the Contractor dies;
 - if the Contractor infringes any statutory rule, or if a fine or another punitive measure is imposed on the Contractor;
 - if the Principal establishes that the Contractor does not comply, or no longer complies, with the eligibility requirements of the tender procedure for the Main Building Contract, or that a ground for exclusion exists.
- The Client is also entitled to fully or partially assign the performance of the Contract to one or more third parties at the Contractor's expense and risk in the aforementioned cases.
- 25.3 If a party makes use of the right referred to in the previous paragraphs, the other party must be informed in writing of the full or partial annulment or termination of the Contract.
- 25.4 In case of full or partial annulment or termination, the Client will be entitled, notwithstanding its right to compensation and costs, and at its option, to:
- at the Contractor's expense, return the goods already delivered but that will not be used or used any longer and/or demolish the work already performed and/or reclaim payments already made for this Work;
 - complete the Work itself or arrange for it to be completed by third parties, if necessary after written notice, using the goods that have already been delivered by the Contractor and the materials, equipment, etc. used by the Contractor, whether or not for a reasonable fee to be subsequently agreed.
- 25.5 Any claims which the Client may have or acquire against the Contractor as a result of the annulment or termination of the Contract, including any claim for the compensation of damage and costs, are immediately due and payable in full.
- 25.6 The Contractor is obliged to immediately report bankruptcy, a petition for bankruptcy and an actual or impending attachment to the Client in writing.

Article 26: Dispute resolution and applicable law

- 26.1 All disputes – including those that are only regarded as a dispute by one of the parties – as a result of the Contract or its ensuing contracts, which may arise between the Client and the Contractor, will be settled in the manner provided for in the Main Building Contract. If the Client has no Principal, or if the Client and the Principal have not agreed on any dispute resolution procedure, disputes between the Client and the Contractor will be settled, to the exclusion of the ordinary court, by the Court of Arbitration for the Building Industry in the Netherlands, on the understanding that the Client will remain entitled to submit the dispute to the competent court under the law.
- 26.2 The Contract is governed exclusively by Dutch law. The application of the Vienna Sales Convention 1980 (CISG; Convention on the International Sales of Goods) is excluded.

II A SPECIAL SECTION: PURCHASING CONDITIONS

Article 27: Delivery method

- 27.1 Unless otherwise agreed in writing, delivery is carriage-paid to destination. Goods are therefore transported at the Contractor's risk and expense.
- 27.2 Any breakages and/or damage that arise during loading, transport and/or unloading and stacking will be payable by the Contractor, unless the Contractor demonstrates that the damage is the fault of the Client or its employees.
- 27.3 Unless agreed otherwise in the Contract, goods may be unloaded and stacked outside of the Client's normal working hours only with the Client's prior written consent.
- 27.4 Goods must be packed properly and in an environmentally sound manner. The Contractor is liable for any injury or damage to people or property caused by inadequate packaging and/or the damage or destruction of this packaging. The Client will be entitled at all times to return the transport packaging materials to the Contractor at the Contractor's expense.

Article 28: Place of delivery

- 28.1 The Contractor must deliver the goods to the place mentioned in the Contract. If no such place has been agreed, delivery must be made to the construction site. The exact place of delivery on the construction site will be determined in close consultation with the Client.
- 28.2 If the Client requires the goods to be delivered to a place other than the agreed place, prior to the delivery, the Contractor will be obliged to comply with this request insofar as it can reasonably be expected to do so.

Article 29: Date of delivery

- 29.1 Deliveries must be made/take place on the date stipulated in the Contract or in accordance with the schedule determined by the Client. If the Contractor fails to meet the deadline for delivery, it will be in breach without any further notice of default and obliged to compensate all damage suffered by the Client on demand.
- 29.2 The Contractor is bound by the date of delivery stipulated in the Contract, or the delivery schedule determined by the Client, on the understanding that the Client is entitled to adjust the date of delivery or the delivery schedule on a call-off basis in order to adapt to progress made in the Project, without the Contractor being entitled to any price alteration or other form of compensation, unless this is all unreasonably burdensome for the Contractor.
- 29.3 The Client is also entitled, if progress in the Project so requires, to adjust the sequence of the deliveries to be made by the Contractor, even if a specific sequence is mentioned in the Contract.
- 29.4 If the Client is unable for any reason to receive the goods on the agreed date according to the schedule, the Contractor must store and safeguard the goods and take all reasonable methods to prevent any deterioration in the quality thereof until they are delivered.
- 29.5 The Contractor will be liable towards the Client for any fines or discounts on the contract price that are imposed on the Client by the Principal and/or the Site Management due to the late delivery of the Project, or parts thereof, as the result of a delay that is attributable to the Contractor.
- 29.6 Partial deliveries may be made only with the Client's prior written consent.

Article 30: Transfer of ownership, risk, acceptance and supplied goods

- 30.1 Ownership of the goods to be delivered and/or manufactured is deemed to pass to the Client when the goods are separated or designated as being intended for the Client or when the Client has complied with its full or partial payment obligation. Risk in the goods to be delivered and/or manufactured remains with the Contractor until the Client accepts delivery of the goods.
- 30.2 Goods supplied by the Client are and will remain the property of the Client under all circumstances and must be marked and separated by the Contractor in a manner that is distinguishable for third parties. These goods will be deemed to be in good condition and in accordance with the required specifications, unless the Contractor complains in writing within four working days of receipt thereof. The Contractor must point out the aforementioned goods and surrender or hand them over to the Client on demand.
- 30.3 If the Client rejects the supplied goods, these goods will remain the property of the Contractor and the risk will be deemed to have remained with the Contractor and thus never to have passed to the Client. The Client is not obliged to fulfil its obligations under the Contract in that case. The Contractor must then pass a credit note to the Client for all amounts already charged and immediately refund any amounts already paid by the Client.

Article 31: Acceptance and rejection

- 31.1 Delivery will be deemed to have been accepted by the Client only once it is approved.
- 31.2 The Client and/or the Principal and/or the Site Management are entitled to reject the supplied goods within a reasonable period. Accordingly, all other periods within which complaints must be made, if and insofar as these may be applied by the Contractor, will not apply to the Client.
- 31.3 The Client must immediately notify the Contractor in case of rejection. The Contractor must remove the rejected goods on demand and at its own expense. If the Contractor fails to remove the rejected goods, the Client will be entitled to return these goods at the Contractor's expense and risk.

Article 32: Returns and packaging

- 32.1 If standard commercial goods become surplus to requirements because of changes to the specifications or other causes through no fault of the Client, the Contractor must take these goods back at their invoiced price.

II B SPECIAL SECTION: SUBCONTRACTING CONDITIONS

Article 33: Commencement and completion of the Work; deadlines

- 33.1 The Contractor must commence the performance of the Work on the date mentioned in the Contract. If the Contract does not mention any date and/or time for the Contractor to commence the Work, this will be determined by the Client. The Contractor must perform the Work in accordance with the schedule received from the Client and complete the Work by the date mentioned in the Contract.
- 33.2 The Work will be considered complete once it has been inspected and approved in accordance with the provisions of Article 34 (Inspection and approval).
- 33.3 The Client is entitled to alter the sequence of the Work to be performed if it deems this advantageous for the progress of the construction, without being liable to compensate any damage and costs in this regard.
- 33.4 If the Contractor will be unable to fulfil its obligations by the agreed date or within the agreed schedule, it must immediately notify the Client thereof in writing.
- 33.5 The Contractor will be liable towards the Client for any fines or discounts that are imposed on the Client by the Principal and/or Site Management due to the late completion of the Work, or parts thereof, as the result of a delay that is attributable to the Contractor. The Client will be entitled to recover the full amount of these fines and discounts (even if the breach relates only to a portion of the Work) from the Contractor, for instance by withholding these amounts from payments that it still owes to the Contractor.

Article 34: Inspection and approval

- 34.1 The Contractor must perform its Work according to the requirements of proper and sound workmanship, as set by the Client and/or the Principal and/or the Site Management, and in accordance with the provisions of the Contract in this regard.
- 34.2 The Work will be inspected following a request addressed to the Client by the Contractor in which the Contractor indicates the date by which the Work will be ready for inspection. Unless otherwise agreed, the request must be made in writing.
- 34.3 The inspection will be held as soon as possible after the date mentioned in paragraph 2 of this article. The time and date of the inspection will be communicated to the Contractor as soon as possible, and if possible at least three days before the inspection. The Client may require the Contractor or its authorised representative to be present at the inspection.
- 34.4 Once the Work has been inspected, the Contractor will be notified whether or not it has been approved as soon as possible. Reasons must be provided if the Work is rejected. Unless otherwise agreed, the notice must be given in writing.
- 34.5 Any further inspection after a rejection will take place in accordance with the aforementioned provisions.
- 34.6 The Contractor must repair or replace the rejected Work and/or parts thereof on demand of the Client, without the Client being liable for any additional payment and notwithstanding the Client's right to annul the Contract and receive compensation for the resultant damage and costs.
- 34.7 Inspection or approval does not release the Contractor from any warranty or liability under the Contract concluded between the parties or by law.
- 34.8 If the Work or part thereof is rejected, the Client will also be entitled to suspend payment of the price relating to this Work or part thereof.

Article 35: Maintenance period

- 35.1 Unless otherwise agreed in the Contract, the maintenance period commences on the day after the Contractor hands over the Work to the Client and ends when the maintenance period for the total Project agreed between the Principal and the Client ends. If the Main Building Contract or another relevant contract does not provide for any maintenance period, the maintenance period will end twelve months after the Client hands over the Project to the Principal.
- 35.2 The Contractor must repair defects that arise during the maintenance period on demand of the Client, at its own expense and to the satisfaction of the Client, within a reasonable period to be stipulated by the Client.
- 35.3 The Work will be inspected again after the expiry of the maintenance period to determine whether the Contractor has fulfilled its obligations.

Article 36: Contract variations

- 36.1 Contract extras may be performed only with the prior approval of and after a written assignment from the Client. The Client is obliged to pay only for contract extras that it has requested in writing. Unless otherwise agreed in writing, the settlement of contract reductions will be determined in joint consultation.

- 36.2 Activities that must reasonably be regarded as forming part of the Work, in order to be able to hand over the Work in accordance with the nature and intention of the assignment and in accordance with the requirements as laid down for sound work, may not be regarded as contract extras or additional work nor will they be paid by the Client under any circumstances.
- 36.3 Notwithstanding the other provisions of this article and unless otherwise agreed in writing, the terms and conditions of the Main Building Contract will apply to contract variations.
- 36.4 The Contractor will not be entitled to payment of contract extras if the Client is not paid for these contract extras by its own Principal.
- 36.5 Quantities are not offsettable unless the Contract specifically provides for offsettable quantities. The quantities mentioned in the Contract are stated as accurately as possible and must be delivered in such greater or smaller quantities as is required for the Project, without the Contractor being entitled to request a price adjustment for each unit.