

WEMAKE GENERAL TERMS AND CONDITIONS OF PURCHASE AND SUBCONTRACTING

WeMake Projects B.V. is registered at the Chamber of Commerce under number 72194189
WeMake Residential Projects B.V. is registered at the Chamber of Commerce under number 85219487

Chapter I – general part governing Services, Products and Works

1 Definitions

1.1 In these general terms and conditions of purchase and subcontracting, the terms listed below have the following meaning:

- **Article:** an article of these General Terms and Conditions;
- **Civil Code:** the Dutch Civil Code;
- **Services:** Subcontracting Services and/or Other Services;
- **Sustainability Regulations:** all the relevant sustainability and environmental laws and regulations in force at any time and all applicable rules, guidelines and standards related to corporate social responsibility;
- **Main Building Contract:** the contract between WeMake and the Principal regarding the Project;
- **Supplier:** any natural person, legal entity or partnership that supplies WeMake with Products and/or Services in the broadest sense, submits offers to, places orders with or gives assignments to WeMake, regardless of whether an Agreement is entered into in accordance with Article 3, as well as its representative(s), agent(s) and legal successor(s);
- **Subcontracting Services:** all the services to be provided by the Supplier at WeMake's instruction with a view to the creation and completion of a Work;
- **Agreement:** any agreement between WeMake and the Supplier relating to the supply of Products and/or Services by the Supplier to WeMake regarding the execution of a Project;
- **Other Services:** the services provided by the Supplier at WeMake's instruction, regardless of whether they are related to the delivery of a Product, including the provision of goods, for example via rental, with the exception, however, of Subcontracting Services and work performed under an employment contract;
- **Principal:** the principal(s) under the Main Building Contract;
- **Product:** corporeal objects and Software;
- **Project:** the assignment (within the meaning of Article 7:750 of the Civil Code) given by the Principal to WeMake in the Main Building Contract to create and complete a Work of a material nature;
- **Software:** software, including updates, new and improved versions and releases of that software, as well as the related documentation, whether or not forming part of corporeal objects, such as ICT products supplied by the Supplier;
- **General Terms and Conditions:** these general terms and conditions of purchase and subcontracting;
- **WeMake:** any company that any time forms part of the WeMake group of companies, including WeMake Projects B.V. and WeMake Residential Projects B.V.; and
- **Work:** the work of a material nature to be created and completed by the Supplier at WeMake's instruction regarding a Project.

2 Applicability

- 2.1 Only these General Terms and Conditions apply to all quotations and offers and to the applications for and issue of such quotations and offers, to all purchase and other orders, Agreements, both oral and written, regarding the purchase and delivery of Products and Services by the Supplier to WeMake with a view to the construction of a Work by the Supplier.
- 2.2 The provisions of these General Terms and Conditions apply at all times in relation to the Supplier, unless otherwise expressly stated in writing by WeMake or agreed in writing between the Supplier and WeMake.
- 2.3 General or other terms and conditions (by any name) used by the Supplier do not apply. The Supplier may invoke deviating and/or additional conditions in relation to WeMake only if and as far as WeMake has accepted them in writing. Such deviating and/or additional conditions will not affect the applicability of the other provisions of these General Terms and Conditions and will apply only to the Agreement for which they have been expressly agreed in writing.
- 2.4 By accepting these General Terms and Conditions, the Supplier also agrees to their applicability to all future Agreements between WeMake and the Supplier and to all future quotations, offers, orders, deliveries of Products and Services, construction and completion of Works, and requests for their execution or installation.
- 2.5 These General Terms and Conditions were drafted in the Dutch language and translated into one or more other languages. In the event of any differences in the text and/or interpretation of the various versions, the Dutch version of the General Terms and Conditions shall always be decisive and binding.

3 Formation, amendment and performance of Agreements

- 3.1 WeMake is in no event bound by its written or oral requests for quotations or requests for information or for the submission of a contract proposal. Offers made, quotations issued and prices quoted are binding on the Supplier.
- 3.2 Offers and quotations of the Supplier are valid and irrevocable for at least 60 days. The costs incurred by the Supplier in connection with an offer or quotation are for the account of the Supplier.
- 3.3 Agreements between WeMake and the Supplier are formed (i) if and when WeMake has placed an order with the Supplier in writing or electronically in the form of a purchase order and the Supplier has not subsequently sent WeMake a written rejection of the order within five working days after its receipt, in which case the order or assignment is deemed to have been accepted, thereby creating a legally valid Agreement; or (ii) if and when WeMake and the Supplier have both signed a written document bearing the heading 'Agreement'. The Supplier has no claim against WeMake in respect of terminated negotiations.
- 3.4 If a framework agreement has been entered into with the Supplier, Agreements under that framework agreement are formed when WeMake has given an order/assignment to the Supplier in the manner that is customary for WeMake and the Supplier, and the Supplier has not sent WeMake a written rejection of that order/assignment within 24 hours after

- receipt of that order/assignment, in which case the order/assignment is deemed to have been accepted, thereby creating a legally valid Agreement.
- 3.5 If the Supplier receives an order/assignment from WeMake containing obvious typing errors or an incorrect attachment, or if the same (written) order/assignment is sent more than once, no Agreement is concluded and the Supplier must contact WeMake in writing immediately on receipt of such an order/assignment in order to verify it with WeMake.
- 3.6 WeMake's accounting records are binding with regard to the content and performance of all Agreements.
- 3.7 WeMake always has the right– within a reasonable period of time – to (a) amend or cancel any order/assignment (incorrect or other) it has issued; or (b) require a change in the nature and/or scope of the Work to be delivered and/or the Products and Services to be delivered, unless the change is so far-reaching that the Supplier would not have been willing to enter into the Agreement on that basis. A change is deemed to be accepted if (a) the Supplier does not reject that change in writing within two working days after the date of the amended order/assignment; or (b) the Supplier commences the actual performance of the amended Agreement. If the amendment is technically or otherwise impossible, the Supplier must immediately inform WeMake accordingly in writing.
- 3.8 An amendment as referred to in Article 3.7 will not result in a price increase or change in the delivery/completion period or date of the Work, Products or Services, unless the Supplier notifies WeMake otherwise in writing within two working days after the date of the amended order/assignment and WeMake subsequently accepts those consequences in writing. If WeMake does not wish to accept those consequences, it may terminate the Agreement in writing within two working days after the Supplier's written notification. Termination will not entitle the Supplier to any compensation or damages on any ground, except for the reimbursement of costs already reasonably incurred by the Supplier in the performance of the Agreement, provided that the Supplier has properly substantiated those costs in WeMake's opinion.
- 3.9 After an Agreement has been formed, WeMake is not bound by any amendment made by the Supplier, unless such an amendment is approved in writing by WeMake.
- 3.10 The Supplier may outsource the performance of all or part of the Agreement to third parties or hire personnel for that purpose only with WeMake's prior written consent. If the Agreement is performed in whole or in part by a third party engaged or personnel hired by the Supplier, the Supplier itself remains fully liable for the timely and correct performance of the Agreement.
- 3.11 If WeMake has entered into an Agreement with two or more Suppliers, each of those Suppliers is jointly and severally liable to WeMake for the performance of that Agreement.
- 3.12 The Supplier must at all times provide its Services related to the performance of an Agreement in a demonstrably sustainable, socially responsible and environmentally conscious manner. The Supplier must be familiar with Sustainability Regulations. The Supplier must be aware of whether and in what manner Sustainability Regulations apply to it and to the Services to be provided by it under an Agreement, and must act accordingly. The Supplier must set up its organisation and its Services in such a way as to also enable WeMake to comply in full and in time with any obligations that apply to WeMake under those Sustainability Regulations in light of the Agreement entered into between the Supplier and WeMake. If any information or reporting obligations apply to the Supplier or WeMake under those Sustainability Regulations, the Supplier must provide WeMake with

all the necessary information related to its Services to enable also WeMake itself to comply with those Sustainability Regulations.

4 Prices and fees

4.1 The prices agreed between WeMake and the Supplier for the Work and for all the Products and Services are:

- (i) fixed;
- (ii) denominated in euros, whereby any exchange rate differences and costs will be payable by the Supplier and will therefore not be passed on;
- (iii) exclusive of VAT;
- (iv) inclusive of all costs, including packaging, performance, transport/travel/parking, loading/unloading, inspection and insurance costs, and any instruction, accommodation, assembly/installation and/or personnel and administration costs; and
- (v) exclusive of import duties, excise duties, levies and other governmental taxes.

4.2 Unless otherwise provided in the Agreement, all fees payable by WeMake for Services are based on a fixed and all-inclusive amount, which includes any time spent by or on behalf of the Supplier, Products and materials purchased and used by the Supplier for the purposes of the Work, and all costs. Other costs – on any ground and of any party – are included in the fee for the Services and cannot be passed on to WeMake.

4.3 The Supplier may not increase the agreed prices and/or the agreed rate/fee during the term of the Agreement. If the Supplier is obligated to increase the prices on the basis of a mandatory statutory provision, WeMake may terminate the Agreement with immediate effect without being liable to the Supplier in any way for any damage on that ground.

4.4 If the parties have not agreed on a fixed price or rate/fee, but the Supplier has quoted an estimate/budget and establishes that that estimate/budget will be exceeded, the Supplier must immediately inform WeMake accordingly, after which the parties will discuss any consequences. WeMake will not pay for any costs that exceed an agreed estimate/budget, nor any additional costs or additional work, unless WeMake expressly agrees to do so in writing at such time.

5 Payment

5.1 The Supplier must invoice the amount payable by WeMake under the Agreement on the basis of the agreed payment schedule. If no payment schedule has been agreed, the Supplier may not invoice any sooner than on the date of completion of the Work, unless it has been expressly agreed between the parties that Products and Services delivered will be invoiced on or after the delivery date, and in any event no earlier than the date stated as the invoice date. If WeMake and the Supplier have agreed on partial deliveries in accordance with Article 21.8, the Supplier may not invoice until all partial deliveries have been completed.

5.2 The Supplier must send its invoices to WeMake in single copy by e-mail (finance@wemake.nl or any other e-mail address expressly communicated by WeMake). Each invoice must always state at least (i) the order number; (ii) the order date; (iii) the delivery address; (iv) the Work and Project number; Product number(s); (v) the description of the Products and/or Services delivered; (vi) the number of Products delivered/returned; (vii) the VAT code(s) of Products; (viii) the purchase price of the Products and Services;

- (ix) the purchase value of the total invoice; (x) the IBAN number of the Supplier; and (xi) all the other customary data. If these details are not correctly stated, WeMake may require a new invoice and suspend payment.
- 5.3 If the Supplier's IBAN number stated on the invoice will be changed, the Supplier must inform WeMake accordingly as soon as possible, indicating both the old and the new IBAN number and also the effective date of the change. As soon as the Supplier becomes aware of the change in its IBAN number, it must state both the old and the new IBAN number on every invoice from that date, for a period of three months from the effective date of the new IBAN number. The Supplier's IBAN number stated on the invoice will always be decisive for WeMake and payments made by WeMake by transfer to the IBAN number stated on that invoice will clear the debt. If the Supplier fails to state the effective date of the new IBAN number, transfers made by WeMake to one of the two IBAN numbers will be deemed to have cleared the debt.
- 5.4 The Supplier's invoice – if accepted by WeMake without protest – will be paid if possible within 30 days after receipt of the invoice, under the condition that Supplier has provided WeMake with all relevant documents (including those referred to in Article 21.5) correctly and in full. If WeMake disputes the invoice on substantiated grounds, that 30-day period will not commence until the Supplier has sent WeMake a correct invoice. WeMake will not make payments to the Supplier on the basis of a direct debit.
- 5.5 The Supplier cannot obligate WeMake to make advance payments, to provide security or an early payment discount, or to pay collection costs.
- 5.6 Payment cannot be construed as a waiver of rights by WeMake, nor as an acknowledgement that the Work, the Products and the Services in the condition in which or the manner in which they have been delivered are in accordance with the Agreement between WeMake and the Supplier and with these General Terms and Conditions. Payment will not release the Supplier from any liability in respect of the Agreement.
- 5.7 Payment will release WeMake from all the obligations arising for it from the relevant Agreement. The Supplier may not regard payment of an invoice for a specific order or assignment as payment for any other claim or alleged claim of the Supplier against WeMake.
- 5.8 WeMake may set off any amount payable by the Supplier to WeMake – on any ground – against any amount payable by WeMake to the Supplier, regardless of whether that amount is immediately payable. The same also applies to any costs incurred by WeMake in connection with the Work, Products delivered and Services.
- 5.9 Each credit note must be received by WeMake no later than 30 days after the parties have agreed on crediting. If the last day of that 30-day period falls after the end of the quarter, WeMake must receive the credit note before the end date of the quarter.
- 5.10 The Supplier does not have a right of retention, a right of reclamation, a right of set-off or a right of suspension.
- 5.11 WeMake is entitled to require the Supplier to provide a bank guarantee or any other security to be specified by WeMake, if WeMake has valid reasons to fear, before entering into the Agreement or during the term of the Agreement, that the Supplier will fail to meet its obligations to WeMake or will fail to do so in a timely manner.

- 5.12 If a debt to the Supplier would remain when WeMake satisfies an immediately payable claim of the Supplier against it, WeMake may set off claims of WeMake against the Supplier, regardless of whether or not they are immediately payable. If no debt to the Supplier remains or exists, the Supplier must pay WeMake's claim at its first request.

6 Delivery/completion period

- 6.1 The delivery/completion date or period for the Work, Products and Services stated by the Supplier in the offer, quotation or order confirmation is definitive and a strict deadline. If a delivery date has been agreed, it commences on the day after WeMake has placed its order with or given its assignment to the Supplier.
- 6.2 If and as soon as the Supplier has any reason to assume that the agreed delivery/completion date or period will be exceeded or is at risk of being exceeded, it must immediately notify WeMake accordingly in writing, properly stating the reason(s). If the Supplier invokes force majeure in relation to WeMake under Article 12, it must also immediately provide WeMake with documentary evidence proving that such force majeure does or did indeed exist. If the Supplier fails (in the event of force majeure) to send the immediate written notification to WeMake or to immediately provide WeMake with the documentary evidence, that will nullify the Supplier's right to invoke force majeure.
- 6.3 If the Supplier exceeds the agreed delivery/completion date or period in respect of the Work, Products or Services, or fails to deliver the right number of Products/Services:
- (i) the Supplier is immediately in default without any further demand or notice of default being required;
 - (ii) WeMake may impose on the Supplier, without any further demand or notice of default being required, an immediately payable penalty of 0.5% per day, up to a maximum of 10% of the price/rate/fee due for the relevant Product/Service/Work, plus turnover tax, for each day on which such failure continues;
 - (iii) the Supplier must repay to WeMake in full any penalty or other compensation/fee payable by WeMake to the Principal on the ground of late delivery of the Project or part of the Project, within two weeks after WeMake files a written claim to that effect against the Supplier;
 - (iv) the Supplier indemnifies WeMake against all other related claims of third parties (including the Principal); and
 - (v) WeMake may terminate or dissolve (*ontbinden*) all or part of the Agreement without any judicial intervention being required, and without prejudice to any other rights vested in WeMake under the applicable law, in the form of a written statement and without being liable in any way to the Supplier for any damage.
- 6.4 Insofar as partial deliveries have taken place in accordance with Article 21.8 and the Supplier exceeds the agreed delivery date or period of one or more of those partial deliveries, WeMake may return those partial deliveries to the Supplier at the Supplier's expense. The Supplier must then immediately repay any amounts already paid by WeMake in respect of those partial deliveries. The above is without prejudice to WeMake's other rights and claims under the Agreement, these General Terms and Conditions, and the law.

6.5 Delivery of Products and Services and completion of the Work before the agreed delivery/completion date or period, on other than customary working days or outside WeMake's regular working hours will require WeMake's prior written consent.

6.6 The signing by WeMake of any delivery document or other document originating from the Supplier may not be construed as a waiver of rights by WeMake, nor as an acknowledgement that the Work, Products and Services in the condition/manner in which they have been delivered are in accordance with the Agreement between WeMake and the Supplier and with these General Terms and Conditions.

7 Software

7.1 The Supplier hereby grants WeMake a non-exclusive, worldwide, unconditional, perpetual and irrevocable right of use in respect of the Software supplied by the Supplier. WeMake also has the right to use the entire functionality of the Software in object code in the broadest sense of the word, the right to modify, multiply, copy/reproduce, store, transmit, make readable, correct errors in, translate, edit or otherwise alter the Software, and the right to incorporate the Software into other programs/software in order for them to function together in one program.

7.2 The Supplier warrants that the Software supplied by it does not infringe any third-party right and that no third party can prevent or interfere with WeMake's use of any part of the Software. The Supplier indemnifies WeMake against any third-party claims and against all damage and costs of WeMake related to the provision in the preceding sentence.

7.3 Software developed at WeMake's instructions must always be delivered together with its source code(s), whereby the intellectual property rights relating to the object code(s) and the source code(s) belong to WeMake. The Supplier warrants that WeMake will acquire these rights no later than on delivery of the Software and will provide the necessary cooperation to that end.

8 Warranties

General

8.1 The Supplier has sufficiently familiarised itself with the objectives that WeMake wishes to achieve with the Products, Services and/or Work. During the performance of the Agreement, the Supplier will take into account any wishes expressed by WeMake in addition to the Agreement.

8.2 The Supplier warrant that it will fulfil its obligations under the Agreement, these General Terms and Conditions and the law, and warrants the soundness of the Products delivered to WeMake and – if applicable – installed/assembled by it, Work completed and/or Services provided, in a timely and complete manner. The Supplier warrants that the Products, Services and/or Work and related documents comply with the Agreement and are suitable for the purpose for which they are intended, and that the Products comply with the requirements set out in Article 23. The Supplier warrants the accuracy, completeness and reliability of the information and data provided to WeMake by it or on its behalf.

8.3 The Supplier warrants that:

- (i) the performance of the Agreement, all its activities, Products and/or Services provided by it, and the Work are in accordance with the applicable national, local, international and European laws and regulations, collective labour agreements, treaties and standards and norms (that apply where (i) the Products are produced, assembled, installed and transported; (ii) the Products will be delivered; (iii) the Services/ Work are prepared and delivered; and (iv) the Products/Work will subsequently be used or processed), including in the field of competition, product liability, safety, personal and other data, and privacy, sustainability, the environment, sanctions, working conditions, and labour laws and regulations (including the Working Conditions Act, the Foreign Nationals (Employment) Act, the Compulsory Identification Act, the Placement of Personnel by Intermediaries Act, the Labour Market Fraud (Bogus Schemes) Act, and any laws and regulations following from or related to it);
- (ii) it will provide WeMake and the Principal with all the cooperation requested by them and will provide information to ensure that WeMake and the Principal are able at all times to comply with applicable national, local, international and European laws and regulations, treaties and standards and benchmarks in the field of sustainability, including the provision of all information and documentation requested by the Supplier and the Principal, to enable them – and other parties involved in the Supplier's value chain – to comply with their statutory reporting obligations.

Products/Works

8.4 The Supplier warrants that:

- (i) the Products and the Work will at all times be of good and consistent quality and free from non-Product-related and non-Work-related odours, colours, properties and contaminants in any form (regardless of whether or not such contaminants cause a change in the properties of the Product/Work) and from faults, unsafety or defects in the nature, composition, design, construction, assembly, material and contents; and
- (ii) the Software is free of computer viruses, trojan horses, computer worms, rootkits and other elements/code that cause or may cause damage.

8.5 In terms of duration, the warranty period of each Product/Work also extends to the entire expected lifetime of the type to which the Product/Work in question belongs. The warranty period must run from the date on which the Product/Work is delivered/handed over by the Supplier to WeMake, up to and including the last day of that period of the expected life of the Product, and must continue for a minimum period of ten years. WeMake and the Supplier may agree in writing on a longer period.

8.6 During the warranty period, the Supplier must, in the event of defective or incomplete delivery/completion in WeMake's opinion, rectify the defects or replace the Product/Work in question – at WeMake's discretion – free of charge, regardless of the cause of the defect and without prejudice to the Supplier's liability under the Agreement, these General Terms and Conditions, and the law. Repair of the defects or replacement of a Product/Work by the Supplier must take place in the shortest possible time, and in any event within the reasonable period stated by WeMake. The right referred to in the first sentence is without prejudice to WeMake's other rights under the law, both during the term and after the end of the warranty period.

- 8.7 In the event of repair or replacement of one or more Products or part of a Product in whole or in part, the entire warranty period will recommence in respect of the Product(s) or that part of the Product.
- 8.8 In the event of handover of the Project by WeMake to the Principal, WeMake will give the Principal the warranties issued by the Supplier (referred to in this Article) and the Supplier must also give all the agreed documentation regarding those warranties within two weeks after handover of the Project to WeMake or directly to the Principal, in physical or digital form, as agreed between the parties. The Supplier agrees that from that moment on the Principal may hold the Supplier liable for the repair of defects or for the replacement of the Work in question, as referred to in Article 8.6. In that case the warranties referred to in this Article will therefore also apply as free of charge and irrevocable third-party clauses within the meaning of Article 6:253 of the Civil Code in relation to the Principal.

Services

- 8.9 The Supplier warrants that:
- (i) it can and will provide the Services in a timely, proper and complete manner and in accordance with the provisions of the Agreement and these General Terms and Conditions;
 - (ii) it can and will provide the Services independently, objectively, diligently and competently;
 - (iii) the Services will be provided in all respects in accordance with any drawings, specifications, models and samples provided by WeMake and/or the Principal;
 - (iv) it will provide the Services in a manner consistent with the operational and other needs and the standards and core values that WeMake promotes and will share with the Supplier from time to time;
 - (v) it has sufficient capacity and in particular that it can and will deploy sufficient personnel, to enable the timely, efficient and adequate provision of Services and further performance of the Agreement;
 - (vi) no soil contamination and environmental damage will occur during the provision of Services; and
 - (vii) WeMake will at all times be able to live up to the warranties given by it to the Principal regarding the Project, related to the Products and Services provided by the Supplier.
- 8.10 The Supplier warrants that it will deploy only employees for the provision of the Services at WeMake's location(s) who are entitled to work in the Netherlands, and that employees who are not Dutch nationals have a work permit.
- 8.11 Warranties issued by the Supplier may not be construed as a waiver by WeMake of any rights under the Agreement, these General Terms and Conditions or the law, or from any other source.

9 Licences, social security contributions and taxes

- 9.1 As far as any permit, exemption, governmental approval/permission or certificate is required for the production, delivery, use or processing of the Products and Services delivered/the Work completed, the Supplier will ensure that these are obtained and made available to WeMake in time and in full. If WeMake is required by law to apply for a permit,

exemption, governmental approval/permission or certificate, the Supplier must cooperate in that regard.

9.2 WeMake may require that the performance of an Agreement may not commence until the required permit(s), exemption(s), governmental approval(s)/permission(s) or certificate(s) have been obtained. As soon as WeMake has valid reason to assume that a permit, exemption, governmental approval/consent or certificate cannot be obtained or cannot be obtained in time, it may terminate or dissolve (*ontbinden*) the relevant Agreement with immediate effect, without prejudice to WeMake's right to claim damages if the permit should have been applied for or obtained by the Supplier.

9.3 The Supplier is responsible for complying with its obligations under the tax and social security laws and regulations. At WeMake's first request, the Supplier must demonstrate that it has arranged for the payment of the turnover tax, wage tax and social security contributions due. To this end, whenever WeMake sees reason to do so, the Supplier must provide WeMake at its first request with an auditor's report or a statement from the Tax Authorities. Subject to the provisions of this paragraph, WeMake may at any time withhold the amounts of the social security contributions and wage tax, including national insurance contributions, from the contract sum to cover any amounts payable by the Supplier to WeMake, and pay them directly to the Tax Authorities, in which case WeMake will be discharged in relation to the Supplier as far as these amounts are concerned. If WeMake so wishes, the Supplier must make use of a G account into which WeMake will deposit the (estimated) wage tax and VAT payable by the Supplier.

10 Audit

10.1 WeMake may, whenever it sees reason to do so, conduct audits and investigations itself or have them conducted by third parties to verify whether the Products and Services (and their quality) delivered or to be delivered by the Supplier, the Work completed or to be completed, and the performance of the Agreement by the Supplier are in accordance with the Agreement. The Supplier must fully cooperate in the audits and investigations, including by providing WeMake and the person(s) entrusted by WeMake with the audits and investigations (such as experts and auditors) with: (i) access to the Supplier's site(s) and the Work (or parts of the Work) and movable property present there, including documentation and Products; (ii) all information and (physical or digital) documentation and files requested or required by WeMake, at WeMake's first request; (iii) space, personnel and material support free of charge; and (iv) full and truthful answers to their questions.

10.2 Each of the parties will pay its own costs of the audits and investigations referred to in Article 10.1, unless WeMake establishes that the Supplier has acted in breach of the Agreement, in which case the Supplier must (also) pay the full costs incurred by WeMake in the relevant audit/investigation. For the Supplier, its own costs also include the costs of cooperation of the Supplier's external auditor/accountant.

10.3 The persons conducting an audit or investigation as referred to in Article 10.1 at the Supplier's site(s) must act in accordance with the safety procedures and regulations in force at the Supplier's premises.

11 Suspension and dissolution (*ontbinding*)

11.1 If and when:

- (i) the Supplier fails to fulfil any of its obligations under these General Terms and Conditions, under any Agreement with WeMake or applicable laws, regulations and guidelines, or to do so in time or in full;
- (ii) third parties claim rights with regard to the Supplier's property, or attachment is levied on its goods;
- (iii) the Supplier applies for a suspension of payment or files a petition in bankruptcy, or such an application or petition is filed against the Supplier, the Supplier enters into a payment arrangement with one or more of its creditors, or otherwise creates the impression that it is or will become insolvent;
- (iv) the Supplier (being a natural person) dies, is placed under compulsory guardianship or administration, or states that it wishes to be considered for a debt restructuring arrangement;
- (v) the Supplier voluntarily or involuntarily dissolves (*ontbindt*) or liquidates its business, its business is continued in a different legal form, its registered office or place of business is moved to another country, the direct or indirect control over the Supplier is transferred, the management of the Supplier is substantially changed, or any permit required for the performance of the Agreement is revoked;
- (vi) the Supplier transfers the rights under any Agreement that is governed by these General Terms and Conditions to a third party;
- (vii) the Supplier or any person working for it fails to comply or no longer complies with the applicable access, approval or registration conditions related to the work to be performed by it; or
- (viii) the Supplier or any third party engaged by it is in arrears with the payment of turnover tax, income tax or social security contributions, or fails to submit a statement as referred to in Article 9.3 at WeMake's first request;

WeMake may, at its discretion, suspend its obligations, on any ground, to the Supplier until Supplier has fully complied with its obligations to WeMake, and/or may terminate or dissolve (*ontbinden*) all or part of the Agreement, at all times without any judicial intervention in the form of a written statement to the Supplier being required. In that case, WeMake will not be liable in any manner to the Supplier for any damage, costs or interest. WeMake will, however, be entitled to claim full compensation. Furthermore, all claims of WeMake against the Supplier, on any ground, will become immediately payable, without any further demand or notice of default being required.

11.2 Without prejudice to the provisions above, as far as the Supplier has failed to fulfil any of its obligations under these General Terms and Conditions or under any Agreement with WeMake, or has failed to do so in a timely or proper manner, WeMake may, at its discretion:

- (i) give the Supplier the opportunity to fulfil its obligations after all, within a period set by WeMake;
- (ii) assign the performance of the Agreement, in whole or in part, to third parties at the Supplier's expense; and/or
- (iii) exercise any other legal or other remedy available to WeMake under the law, without prejudice to WeMake's other rights under the Agreement or these General Terms and Conditions.

11.3 In the event of suspension or dissolution (*ontbinding*) as referred to in this Article 11, the Supplier will forfeit, without any further demand or notice of default being required, an

immediately payable penalty of 50% (fifty percent) of the full price of the Agreement not or not fully executed. WeMake will in that case also be entitled to full damages.

12 Force majeure

12.1 For the purpose of these General Terms and Conditions, force majeure means a circumstance beyond the Supplier's control, that the Supplier was unable to influence and as a result of which WeMake cannot reasonably demand compliance by the Supplier. This in any event excludes (i) breach by third parties (such as suppliers) in relation to the Supplier as a result of which the Supplier is unable to fulfil its obligations towards WeMake; (ii) any circumstance related to the management (or the manner of management) or the purchase or transport by the Supplier; (iii) the personnel (or lack of personnel) of the Supplier; (iv) epidemics or pandemics; (v) war; (vi) terrorism; (vii) increase of costs/prices; (viii) staff shortages (including as a result of strikes, illness or transport problems); (ix) shortage of purchased or own stock, gas, electricity or any other source of energy and means of transport; (x) financial problems; (xi) weather conditions; and (xi) the impossibility for the Supplier or WeMake to obtain necessary permits or other governmental approvals. The Supplier cannot invoke force majeure with regard to the warranties it provides as referred to in the Agreement or in these General Terms and Conditions.

12.2 If the Supplier is prevented from fulfilling the Agreement as a result of force majeure, the Supplier must immediately inform WeMake accordingly in writing – properly stating the reason(s) – and provide documentary evidence, as referred to in Article 6.2. If the Supplier fails to do so, it thereby waives its right to invoke force majeure. In the event of force majeure, WeMake may terminate the Agreement in its entirety or for the unperformed part, without any notice of default or judicial intervention being required, in which case the provisions of Article 11.1 will otherwise apply in full.

13 Liability and indemnity

13.1 The Supplier is liable, without limitation, for:

- (i) any damage – direct or indirect – suffered by WeMake, the Principal or other customers as a result of any breach of the Agreement or any wrongful act, or on any other legal basis;
- (ii) all damage – direct or indirect – suffered by WeMake or the Principal after the expiry of the maintenance periods referred to in Article 31, due to shortcomings that can be considered a hidden defect;
- (iii) any damage – direct or indirect – inflicted on WeMake, its personnel or third parties engaged by it, or inflicted on any property of the parties referred to in this article by Products and Services supplied by the Supplier, and the Work completed;
- (iv) any damage – direct or indirect – resulting from the fact that the Supplier provided incorrect, incomplete or unreliable information or data to WeMake;
- (v) any misconduct or negligence – whether or not intentional – by the Supplier, its personnel or third parties engaged by it; or
- (vi) all costs incurred by WeMake in connection with the provisions of this Article 13, including the full costs of conducting (a) a defence against claims of the Principal and other third parties; and (b) legal assistance. The Supplier must reimburse WeMake for these costs within 14 days after WeMake claims those costs.

- 13.2 The Supplier indemnifies WeMake and holds it harmless against liability for the damage described in Articles 6:185 to 6:193 of the Civil Code. This indemnification also applies to claims lower than the amount of EUR 500 stated in Article 6:190 of the Civil Code.
- 13.3 The Supplier indemnifies WeMake against all claims for damages from third parties as far as damage is concerned that results from any wrongful act by the Supplier, failure by the Supplier to comply with all or part of any Agreement, these General Terms and Conditions, the safety or other instructions, or any other legal or other regulations given by WeMake, the Principal or other relevant third parties, or failure by the Supplier to inform or to adequately inform third-party users when using the Products, the Work and Services. For these purposes, the term “third-party users” includes personnel of WeMake and those working at the instruction of or for the benefit of WeMake, and “damage” includes damage to WeMake’s good name and reputation.
- 13.4 If the *Wet ketenaansprakelijkheid* (Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act) applies, the Supplier indemnifies WeMake against liability for damage and costs resulting from non-compliance by the Supplier or any of its subcontractors with any obligation under that Act.
- 13.5 The Supplier indemnifies WeMake against any damage suffered by WeMake as a result of administrative or criminal fines imposed or imminent, or other types of claims made by regulators, such as the Labour Inspectorate, Tax Authorities or other government bodies, due to actions of or related to the Supplier and personnel engaged by the Supplier or third parties, also including claims related to taxes, personnel costs, social security contributions and the nationality of personnel (such as fines under the Foreign Nationals (Employment) Act and the Compulsory Identification Act). “Damage” means fines imposed, the (full) costs of legal assistance, damage to WeMake’s good name and reputation, and any other damage suffered by WeMake as a result of the regulator’s actions.
- 14 Insurance**
- 14.1 The Supplier must take out and maintain adequate insurance to cover the liability referred to in Article 13, and all other liability (or possible liability) of the Supplier related to the Agreement, during the term of the Agreement and after its termination – for as long as reasonably necessary – at one or more reputable insurers. At WeMake’s request, the Supplier must provide WeMake with copies of the policies of the types of insurance that it is required to take out under the Agreement and these General Terms and Conditions for its inspection, in any event including third-party liability insurance, corporate liability insurance and, in the case of Subcontracting Services, Construction All Risk (CAR) insurance. The same applies to the insurance conditions linked to those insurance policies and proof of premium payment by the Supplier.
- 14.2 The premiums, excess and other insurance costs are at the Supplier’s expense and risk, and are deemed to be included in the prices agreed between WeMake and the Supplier and/or the agreed rate/fee.
- 14.3 If the Supplier is entitled to any payments under an insurance policy in connection with its (possible) liability towards WeMake, the Supplier must ensure that such payments are (or can be) paid directly by the insurer to WeMake. If possible, WeMake should be named as a third-party beneficiary in the insurance policy.

- 14.4 Insurance by the Supplier will under no circumstances lead to any limitation of its liability or to any joint or other liability of WeMake.

15 Personnel

- 15.1 The Supplier warrants that its personnel have never been criminally convicted for any offence that is or may be relevant to the supply of the Work, Products and Services to WeMake, including corruption, bribery, sex offences, drug offences, vandalism, violent offences and theft. The Supplier must submit a valid certificate of good conduct of its personnel involved in the performance of the Agreement at WeMake's first request.
- 15.2 The Supplier also warrants that its personnel who provide Services for WeMake have such a command of the Dutch or English language and themselves speak the relevant language to such an extent as is necessary to provide the Services in a timely and correct manner, and consultation with that personnel in this regard is also possible.
- 15.3 If it becomes apparent during the term of the Agreement that any of the personnel working for the Supplier is not or no longer complying with the provisions of Article 15.1 and/or Article 15.2, the Supplier must immediately replace the person(s) in question and may no longer engage them in the performance of the Agreement.
- 15.4 The Supplier must inform WeMake of the identity of the personnel who will provide the Services before the start of the provision of the Services. At WeMake's request, such personnel must identify themselves on the basis of valid proof of identity. The Supplier must verify the IDs of its personnel and check for authenticity and validity and whether the correct documents are present to be allowed to work in the Netherlands.
- 15.5 The Supplier must keep up-to-date records of the identity of all the personnel involved in the provision of the Services and must, at WeMake's request, provide WeMake with copies of those records within 24 hours in the manner prescribed by WeMake.
- 15.6 Neither of the parties may offer a gift, fee or any other benefit to the other party, its personnel or third parties engaged by that other party, unless that other party has given its express prior written consent.

16 Intellectual property rights

- 16.1 The Supplier warrants that its sale and delivery of Products (including packaging) and Services, completion of the Work, and their use by WeMake, in the broadest sense, as well as the knowledge, methods and systems used by it, do not infringe any third-party intellectual property rights. If it becomes apparent that the delivery, completion or use described above infringes or threatens to infringe any third-party intellectual property rights, the Supplier must:
- (i) obtain a right of use or a licence for the relevant Products and Services;
 - (ii) replace the infringing Products, Work and Services with equivalent products, works or services that do not infringe or threaten to infringe third-party intellectual property rights; or
 - (iii) modify the infringing Products, Work and Services in such a way that the infringement is removed, all the above in consultation with WeMake and without incurring additional costs (other than the agreed purchase price or other price or

fee) for WeMake and without the possibilities for use being more limited than those of the Products, Work and Services originally delivered or to be delivered;

without WeMake being liable for any compensation to the Supplier in any manner in this regard.

- 16.2 Everything that the Supplier produces in respect of the performance of the Agreement (in digital or other form) and that directly or indirectly relates to WeMake and the Principal, including but not limited to result data and other data relating to delivered or completed Work, Products or Services, excerpts, reports, instructions, and other documentation pertaining to WeMake, will become and remain the intellectual or other property of WeMake or – if applicable – the Principal. To the extent necessary, the Agreement constitutes the deed by which the Supplier transfers any intellectual property rights held by it in respect of the preceding sentence to WeMake or – if applicable – the Principal. If, however, a separate deed would be required for that purpose, the Supplier, by signing the Agreement, unconditionally and irrevocably authorises WeMake to sign such a deed on behalf of the Supplier.
- 16.3 The intellectual property rights in or relating to everything that WeMake provides or makes available to the Supplier in the performance of the Agreement, whether physical or digital, including but not limited to data and drawings, models, calculations, documents, files of which that data may form a part, equipment, consumables, machinery, work or other clothing, resources and materials, manuals, instructions, marketing and promotional materials, hardware and software, are and remain the property of WeMake or – if applicable – its licensor(s), and belong exclusively to WeMake or – if applicable – its licensor(s). This includes copyrights, trademarks and patent rights, drawing or design rights, know-how, trade name rights, database rights, neighbouring rights and exclusive licensing rights. None of the provisions of the Agreement may be interpreted as a full or partial transfer of these intellectual property rights to the Supplier.
- 16.4 The Supplier may not make any changes to the Products, Services or Work without WeMake's prior written consent.
- 16.5 The Supplier indemnifies WeMake against all damage and costs on the grounds of third-party claims or legal actions due to infringed or allegedly infringed third-party intellectual property rights directly or indirectly related to the performance of the Agreement by the Supplier (including repairs or updates carried out by or on behalf of WeMake), and the Supplier must compensate WeMake for all resulting damage.
- 16.6 The Supplier may not use WeMake's intellectual property rights (including its brand and trade names, logos, etc.) for any purpose unless WeMake has given it its prior written consent and the Supplier complies with the conditions that WeMake has attached to that consent.
- 16.7 On breach of any obligation set out in this Article 16, the Supplier forfeits, without any further demand or notice of default being required, an immediately payable penalty of EUR 100,000 for each violation established, to be increased by an amount of EUR 1,000 for each day on which the breach continues, without prejudice to WeMake's right to full damages.

17 Confidentiality

- 17.1 The Supplier must keep confidential the Agreement, the Main Building Contract and all written or oral information or data provided by or on behalf of WeMake or the Principal or otherwise related to the performance of any Agreement with WeMake or the Main Building Contract, such as sales, turnover, price or customer data and products, regulations, models, drawings, diagrams, designs, which the Supplier knows or should reasonably know to be secret or confidential, or whose disclosure may be harmful to WeMake, the Principal or their relations. This obligation will remain in force also after performance of the Agreement or in the event of its termination, cancellation or dissolution (*ontbinding*) (regardless of the reason).
- 17.2 The Supplier must impose in writing on its personnel and the third parties engaged by it in the performance of the Agreement the same duty of confidentiality as that set out in this Article 17 and must have these persons sign an NDA for the benefit of WeMake.
- 17.3 The Supplier may not use the written and oral information or data obtained from WeMake or otherwise obtained in the performance of the Agreement for its own use or for use by or for the benefit of any third party, or otherwise use it for a purpose other than the performance of the Agreement.
- 17.4 The Supplier must keep the written and oral information or data obtained from WeMake or otherwise obtained in the performance of the Agreement in an adequately secured (physical or digital) environment and limit access to that information to persons who reasonably need to have access to that information with a view to the performance of the Agreement.
- 17.5 At WeMake's request, the Supplier must immediately return to WeMake any written information or data provided to the Supplier by WeMake or its customers for the purpose of the performance of the Agreement with WeMake.
- 17.6 The Supplier may under no circumstances publicise or advertise the performance of the Agreement with WeMake, the Main Building Contract, the Project and the Work. The Supplier must refrain from direct or indirect use of its relationship with WeMake and the Principal for promotional or other purposes or in brochures or advertisements, and may not otherwise disclose the existence of the relationship with WeMake and the Principal to third parties, unless WeMake has given it its prior written consent to do so and the Supplier complies with the conditions that WeMake has attached to that consent.
- 17.7 The Supplier is liable for any damage suffered by WeMake as a result of breach of an obligation under this Article and will forfeit, without any further demand or notice of default being required, an immediately payable penalty of EUR 50,000 for each breach established, to be increased by an amount of EUR 1,000 per day on which the breach continues, without prejudice to WeMake's right to full damages. The obligations set out in this Article 17 will remain in force also after the performance of the Agreement or in the event of its termination, cancellation or dissolution (*ontbinding*) (regardless of the reason).
- 18 Privacy**
- 18.1 WeMake and the Supplier will strictly comply with the applicable privacy laws and regulations during the term of the Agreement. If any personal data is provided under the Agreement, WeMake and the Supplier will process that personal data in accordance with a data processing agreement approved by WeMake.

19 Miscellaneous provisions

- 19.1 If any of the provisions of these General Terms and Conditions or of any Agreement is found to be void, is annulled or is declared non-binding, that will not affect the validity of the remaining provisions. If any provision is void or non-binding, or is annulled, WeMake and the Supplier will agree on a replacement provision that is valid and that most closely approximates the content and purport of the provision that has been found to be void, annulled or non-binding.
- 19.2 WeMake's rights and obligations under any Agreement or these General Terms and Conditions may be transferred, pledged or subcontracted to third parties in whole or in part, in both an obligatory and property law sense. The Supplier hereby grants WeMake permission in such future event to implement the foregoing provisions and undertakes in advance to grant such further cooperation as may be required for that purpose. However, the Supplier's rights and obligations under any Agreement or these General Terms and Conditions – other than monetary claims within the meaning of the first sentence of Article 3:83(3) of the Civil Code – may not be transferred, pledged or subcontracted to third parties, in either an obligatory or a property law sense. If the Supplier fails to comply with the provisions of the preceding sentence, it will forfeit, without any further demand or notice of default being required, an immediately payable penalty of EUR 500,000 per breach established, without prejudice to WeMake's right to full damages.
- 19.3 Any addition to or amendment of any provision of these General Terms and Conditions will be valid only if agreed in writing by the parties.

20 Choice of law and choice of forum

- 20.1 All the undertakings between WeMake and Supplier, all Agreements, these General Terms and Conditions, and all resulting or related contractual and non-contractual obligations are governed by Dutch law, with the exception of Dutch private international law rules of conflict. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) is expressly excluded.
- 20.2 All disputes concerning, arising from or related to an Agreement entered into by WeMake, a quotation received, an offer requested or an order placed, and all orders that are governed in whole or in part by these General Terms and Conditions, these General Terms and Conditions themselves, as well as all non-contractual obligations arising from them or related to them will be submitted exclusively to the competent District Court of Amsterdam for resolution.

Chapter II – specific provisions governing Products

21 Delivery of Products

- 21.1 The delivery of Products will be DDP, at the place of destination each time agreed between the parties, in accordance with the latest version of the Incoterms® (currently 2020). If the parties agree on a different delivery method in an individual Agreement, that different delivery method will apply only to that individual Agreement and not also to other Agreements.
- 21.2 The Products will remain at the Supplier's expense and risk, in accordance with the latest version of the Incoterms® (currently 2020), until they are delivered.

- 21.3 Ownership of the Products will pass from the Supplier to WeMake on delivery, unless otherwise agreed or unless the Products are rejected in accordance with Article 24.4.
- 21.4 The delivery of Products will not have been completed until WeMake has received the documents relating to the delivered Products as referred to in Article 21.5 and the conditions set out in Article 21.7 have been fulfilled.
- 21.5 At the same time as the delivery of the Products, the Supplier must also deliver all documents relating to those Products (such as all relevant transport and other documents, the delivery notes and consignment notes signed by WeMake, any product specifications, warranty and other certificates, manuals in Dutch, and all the documents required for the (safe) use of the Product in question) in accordance with the applicable statutory and other requirements. WeMake has the perpetual and irrevocable right to freely use that documentation, including multiplying it for its own use.
- 21.6 The Supplier must provide, free of charge, such additional services as WeMake reasonably requires to make optimal use of the Products or Services delivered, including providing instructions or training or sharing know-how.
- 21.7 The Supplier must mark the outside of the packaging of the Products to be delivered with all the information prescribed by WeMake and considered necessary or customary in the industry, in any event including (i) WeMake's order reference number; (ii) the number of packages; (iii) the correct delivery details of the agreed destination; (iv) WeMake's contact person for the delivery in question; and (v) the packing slip. The packing slip must state which Products have been delivered and in what numbers, whereby the Products and numbers stated must correspond with the order numbers stated on the consignment note referred to in the preceding paragraph.
- 21.8 Partial deliveries of Products may take place only if expressly agreed in writing between the parties. In that case, for the purposes of these General Terms and Conditions, delivery also means any partial delivery.
- 21.9 If any Product that forms part of an order placed by WeMake is out of stock at Supplier (whether or not temporarily), the Supplier must notify WeMake as soon as possible, but no later than 24 hours after receipt of that order.

22 Transport, packaging and storage

- 22.1 The transport of the Products and their loading and unloading take place entirely at the Supplier's expense and risk.
- 22.2 The Supplier must comply with any transport and other instructions given by WeMake. If the Supplier fails to comply with these instructions during a delivery, WeMake may refuse that delivery.
- 22.3 The Products must be packed and secured in such a way that they reach the agreed destination in good condition during normal transport. If the packaging of the Products is found to be damaged on delivery, WeMake may refuse the Products.
- 22.4 The packaging may not cause damage to the environment, safety or health, and must comply with the applicable regulations.

- 22.5 The Supplier is liable to WeMake for all damage caused by or to the Products as a result of failure to comply with the transport and other instructions referred to in Article 22.2 due to insufficient, defective, damaged or destroyed packaging, or due to damage occurring during or in connection with the transport, including damage caused by delays. The Supplier must take out and maintain insurance to cover the damage referred to in the preceding sentence. The Supplier must replace free of charge any Products that are damaged or lost during transport, without prejudice to WeMake's other rights under the Agreement, these General Terms and Conditions or the law.
- 22.6 Without being under any obligation to compensate the Supplier or third parties in this regard, WeMake may postpone the delivery of any order of Products placed by it with the Supplier, for example if the Project is delayed for any reason. In the event of such postponement of delivery of ordered Products, the Supplier must, at WeMake's first request, store, secure and insure the Products properly packaged, separated and identifiable as destined for WeMake during the period stated by WeMake, all the above at the Supplier's expense, whereby the Products will remain at the Supplier's expense and risk until the Supplier delivers them to WeMake under Article 21.1.
- 22.7 Unless loan packaging is involved, WeMake will become the owner of the packaging on delivery of the Products by the Supplier. Loan packaging will be returned to the Supplier at the Supplier's expense and risk and at the destination stated by the Supplier. WeMake and the Supplier will keep their own records with regard to loan packaging used by the Supplier in the context of the delivery/handover of Products to WeMake. If a difference of opinion arises between the parties as to whether and, if so, how much loan packaging WeMake owes the Supplier, WeMake's records regarding the amount of loan packaging will be binding, save for written evidence to the contrary provided by the Supplier.

23 Quality of products

- 23.1 Without prejudice to the Supplier's obligation to comply with any further specifications or conditions in WeMake's order, the Products to be delivered must:
- (i) be entirely in accordance with WeMake's written order and the Agreement, in particular in terms of their quantity, description, specification, quality, model, performance and other relevant characteristics;
 - (ii) have all the general and special properties promised by the Supplier;
 - (iii) be new, first class in terms of their design, construction, material, manufacture, composition and quality, and furthermore be free from defects in material, construction, workmanship, manufacture and design;
 - (iv) be suitable for normal usage and other purposes, and any specific purposes made known to the Supplier by WeMake;
 - (v) be manufactured in such a manner that they can be safely, easily and properly used, connected and installed;
 - (vi) comply with the requirements imposed in or under the law or other government regulations;
 - (vii) bear an indication by the manufacturer or the party marketing the Product (in the Netherlands or abroad), whereby that indication must be stated clearly and in the Dutch language on the Product or, if that is impossible, on its packaging;
 - (viii) be free from (limited and personal) rights and encumbrances; and
 - (ix) be entirely identical to any samples or designs shown by the Supplier to WeMake.

23.2 If WeMake has not specified descriptions, quality standards, results or purposes as described in Article 23.1 in the order or otherwise, the Products to be delivered must comply with the product specifications, technical and other descriptions, quality standards, results and purposes that can reasonably be expected of the relevant Products.

23.3 If the composition of any Product previously supplied by the Supplier to WeMake or on order from the Supplier changes, the Supplier must immediately notify WeMake accordingly in writing.

24 Inspection of Products

24.1 The Supplier must subject the Products to a thorough inspection before delivery to WeMake at the Supplier's own expense.

24.2 WeMake may inspect the Products or have them inspected at the Supplier's location(s) or at any other location where the Products are located, before or after delivery, at the Supplier's expense. The Supplier must cooperate in such an inspection. If the inspection takes place before the Products have been delivered to WeMake, the Supplier must make space, personnel and material support available to WeMake free of charge at its request.

24.3 An inspection or examination of Products must take place in accordance with the requirements set out in Article 23. An inspection by or on behalf of WeMake may not be interpreted as a waiver of any right of WeMake, or as an acknowledgement of the soundness of the Products delivered or to be delivered, and will not release the Supplier from any liability in this respect.

24.4 If WeMake is of the opinion after an inspection that the Products do not comply with the Agreement or these General Terms and Conditions, WeMake will notify the Supplier accordingly in writing. WeMake may in that case – at its own discretion – demand repair or replacement of all or part of the defective Products and/or delivery/completion of Products other than those which the Supplier intended to deliver to WeMake, all the above at the Supplier's expense and risk, or terminate or dissolve (*ontbinden*) the Agreement, all the above without prejudice to its other rights under the Agreement, these General Terms and Conditions or the law.

24.5 If the Supplier has already delivered the Products before the inspection takes place and WeMake subsequently terminates or dissolves (*ontbindt*) the Agreement on the basis of that inspection, the Supplier will arrange for the collection of the Products from WeMake at its own expense and risk within five working days after receipt of the notification referred to in Article 24.4. If this period expires without the Supplier having collected the Products, WeMake may have the Products transported by a third party at the Supplier's expense and risk to an address of or used by the Supplier that is known to WeMake. If WeMake has already paid for the Products, the Supplier must immediately repay the amount paid by WeMake, plus the statutory commercial interest under Article 6:119a of the Civil Code from the date of payment by WeMake until the day on which the amount is repaid.

Chapter III – specific provisions governing Services (Subcontracting Services and Other Services)

25 Tools and materials

25.1 The Supplier must arrange – at its own expense and risk – for the availability and soundness of all devices, resources and materials required for the provision of the Services, including equipment, tools, scaffolding, consumables (such as paint, piping, plaster and building materials), work and other clothing, and other resources and materials, unless the parties have expressly agreed otherwise in writing.

25.2 Devices, resources and materials made available to the Supplier by WeMake will at all times remain the property of WeMake, will be used by the Supplier at its own expense and risk, and must be returned to WeMake at its first written request. These devices, resources and materials of WeMake must be properly maintained by the Supplier. WeMake may attach (further) conditions to the use by the Supplier of devices, resources and materials – whether or not provided by WeMake.

26 Inspection

26.1 WeMake may inspect the Services and the Work, or arrange for their inspection, before, during or after the execution phase, at the Supplier's expense, at the location(s) where those Services are or will be provided or the Work is or will be completed. The Supplier must cooperate and give WeMake or third parties engaged by WeMake full and unconditional access to the locations in question. If the inspection takes place before the Services are delivered or the Work is completed, the Supplier must make space, personnel and material support available to WeMake free of charge if requested.

26.2 WeMake may also inspect or arrange for the inspection of the building materials to be processed in the Work before they are processed or delivered, both at the location where they are processed and at the Supplier and its suppliers.

26.3 An inspection by or on behalf of WeMake may not be construed as a waiver of any right of WeMake, or as an acknowledgement of the soundness of the Services or the Work, and will not release the Supplier from any liability in this regard.

26.4 If after an inspection WeMake is of the opinion that Services or the Work do not comply with the Agreement or these General Terms and Conditions, WeMake will notify the Supplier accordingly in writing. WeMake may in that case – at its own discretion – require the correct Services, repair of all or part of the Services and/or Services other than those that the Supplier intended to provide, or repair or replacement of the Work, at the Supplier's expense and risk, or terminate or dissolve (*ontbinden*) the Agreement, all the above without prejudice to its other rights under the Agreement, these General Terms and Conditions or the law.

27 Additions and omissions

27.1 Additions and omissions may occur only as a result of (i) a request from WeMake to the Supplier for additions or omissions; and/or (ii) a proposal for additions or omissions from the Supplier that is expressly accepted in writing by WeMake.

27.2 The Supplier must provide WeMake with a market-based offer in writing regarding the additions or omissions as soon as possible but no later than ten days after the request/proposal referred to in Article 27.1 is received/provided, and must inform WeMake of the consequences of the changes for the Work and Services, the potential consequences for the construction/completion time, the upward or downward cost

variations, and other relevant consequences. When making the offer, the Supplier may not impose any further or stricter conditions than those arising from the Agreement.

- 27.3 On receipt of the offer referred to in Article 27.2, WeMake will inform the Supplier as to whether (and under what conditions) the offer is approved and whether additions or omissions will be ordered.
- 27.4 The Supplier may not commence the performance of additions, nor will WeMake be required to pay additional costs or fees for additions, unless expressly agreed in writing between WeMake and the Supplier.
- 27.5 Additions do not include (i) work that the Supplier could or should have known was necessary to perform the Agreement; and (ii) work that resulted from incorrect or incomplete information, documentation or specifications prepared, provided, manufactured or accepted by the Supplier.
- 27.6 Additions will be settled by additional payment and omissions by deduction from the contract sum/price/rate/fee for the Work. WeMake and the Supplier will agree on the manner in which – as a lump sum or in instalments– and when the additions or omissions will be settled or, in the case of both additions and omissions, the balance in question. If no agreement has been made concerning the manner and time of settlement of the additions and omissions, this settlement will take place as a lump sum after completion of the Work.
- 27.7 The Supplier must submit its final invoice for additions to WeMake within four weeks after completion of the Work, failing which the fee for the relevant additions will no longer be payable by WeMake.

28 Documents

- 28.1 Physical and digital documents provided to the Supplier by WeMake and/or the Principal, including designs, drawings, models, specifications, instructions, inspection and other regulations and the like, must be checked for completeness and accuracy by the Supplier immediately on their receipt. Within two working days after receipt of the documents referred to in the preceding sentence, the Supplier must inform WeMake in writing of any incompleteness or inaccuracies in those documents, failing which the Supplier will be deemed to be in agreement with the documentation and can no longer invoke any incompleteness or inaccuracies.

Chapter IV – specific provisions governing Subcontracting Services

- 28.2 If the Supplier considers inspection of specific parts of the Main Building Contract or its schedules relevant to the provision of the Subcontracting Services, it must request WeMake in writing to inspect them before the provision of the Subcontracting Services. WeMake is not obligated to comply with such a request and may attach conditions to any inspection or provide the Supplier with the information requested by it otherwise than by means of an inspection.

29 Provision of Subcontracting Services

- 29.1 The Supplier must provide WeMake with certificates, attestations, warranty certificates and/or instruction manuals required for the Work and its use, no later than on completion of the Work or at such earlier time requested by WeMake.

- 29.2 The Supplier must follow only the orders and instructions given by WeMake or – if announced in writing by WeMake – the Principal.
- 29.3 Days of rest or public holidays generally recognised, recognised at the location of the Project or prescribed by the authorities or under a collective labour agreement, and paid leave or other days off agreed on or to be agreed on also apply to the Supplier and its personnel providing the Subcontracting Services. Any resulting additional costs for the Supplier cannot be recovered from WeMake.
- 29.4 The Subcontracting Services to be provided by the Supplier must be provided within the working hours that apply at the construction site/work location, whereby the Supplier must adapt to the holiday, working and break times of WeMake and – if announced by WeMake – the Principal. The Supplier must continue to work at/on the Work during the winter season at WeMake's request.
- 29.5 The Supplier must ensure that any person providing Subcontracting Services on behalf of the Supplier as part of the Work for the Project is registered with WeMake and – if so requested by WeMake – the Principal. If registration has not taken place or has not been completed, access to the worksite may be refused, in which case the Supplier is liable for any damage consequently suffered by WeMake and/or the Principal.
- 29.6 WeMake may deny access to the construction site/work location to persons engaged by the Supplier and/or have them removed for failure to comply with instructions or regulations of WeMake or the Principal, failure to identify themselves, unsuitability, public order offences, misconduct or other reasons on the basis of which WeMake believes that such persons should not be involved in the Subcontracting Services.
- 29.7 During the provision of the Subcontracting Services, a person must always be present on behalf of the Supplier who is instructed to follow orders and instructions given by or on behalf of WeMake and to convey these to the Supplier without delay. The name of this person must be made known to WeMake's site manager or contact person. This person must report to WeMake's site manager or contact person on the commencement, interruption or termination of the Subcontracting Services.
- 29.8 The Supplier must at its own expense and risk keep the construction site/work location of the Work in the context of the Project clean and tidy, including by removing/destroying debris and construction waste, including used packaging material, tools and equipment, as well as residual material and consumables, in accordance with any instructions given by WeMake.
- 29.9 The Supplier is obliged to immediately inform WeMake of any accidents that occur during the provision of the Subcontracting Services and provide WeMake with all the information requested by WeMake in this regard.
- 29.10 The Supplier must report to WeMake in writing every week or – if another time frame is agreed between the parties in writing – each time in accordance with that time frame, on the progress of the Subcontracting Services.

30 Handover

- 30.1 The Supplier must hand over the Work to WeMake in accordance with the provisions of this Article. The Work will be deemed to have been completed if it has been approved by WeMake in accordance with the provisions of this Article and WeMake has accepted the Work by signing the handover report, if such a handover report of the Work is prescribed under the Agreement.
- 30.2 Handover by the Supplier to WeMake will take place on the date stated in the planning schedule, unless the Supplier and WeMake have agreed otherwise.
- 30.3 The Work will be handed over by the Supplier to WeMake ready for use. For these purposes, “ready for use” means that:
- 30.3.1 the Work is fully finished and (professionally) clean/cleaned and otherwise fully ready for use in accordance with the design of the Work and any additions and/or omissions subsequently agreed; and
 - 30.3.2 the Work is in compliance with the Agreement.
- 30.4 No later than 14 days before the day on which the Supplier believes the Work will be ready, the Supplier must invite WeMake in writing, stating the date from which the Work will be ready and on which WeMake can inspect the Work. The purpose of the inspection will be to determine whether the Supplier has met its obligations under the Agreement and will take place on a date determined by WeMake.
- 30.5 During the inspection of the Work, WeMake will either (i) approve the Work by signing the handover report; or (ii) not approve the Work, stating the defects that are the reason for withholding approval of the Work.
- 30.6 The Supplier must remedy – at its own expense and risk – any defects found during the inspection of the Work by or on behalf of WeMake, as soon as possible after the inspection at its own expense, without prejudice to WeMake’s other rights in respect of the Supplier’s failure or otherwise.
- 30.7 Reinspection after withholding of the approval by WeMake will take place as soon as possible after rectification of the defects found. In the event of a reinspection, defects other than those reported to the Supplier at the time of inspection may be grounds for renewed withholding of approval. Articles 30.1 to 30.6 apply *mutatis mutandis* to a reinspection after withdrawal of the approval.
- 30.8 As soon as reasonably possible, but no later than 14 days after handover, the Supplier must provide the revision drawings, revision documents, and all warranty statements and certificates to WeMake.

31 Maintenance periods

- 31.1 Unless WeMake and the Supplier have agreed otherwise, the maintenance periods in respect of all or parts of the Work are as follows:
- 31.1.1 with regard to the structural components of the Work: 12 months after handover; and
 - 31.1.2 with regard to the electrical and mechanical parts of the Work: 24 months after handover.

- 31.2 The Supplier undertakes to permanently remedy all defects that arise or become apparent during the relevant maintenance period within a period of two weeks.

32 Right of retention and right of suspension

- 32.1 The Supplier hereby expressly waives its right of retention within the meaning of Article 3:290 of the Civil Code and the right of suspension within the meaning of Article 6:52 of the Civil Code.
- 32.2 The Supplier must stipulate from each of its subcontractors, suppliers and manufacturers that they also waive their ability to invoke any rights of retention or suspension with regard to the Work, and must ensure that the clause to that effect is included in the relevant agreement with subcontractors, suppliers and manufacturers. The Supplier must demonstrate compliance with this obligation at WeMake's first request.
- 32.3 The Supplier must indemnify WeMake against all damage resulting from the exercise of the right of retention by subcontractors, suppliers or manufacturers and for all damage resulting from disagreement between the Supplier and its subcontractors, suppliers or manufacturers in the unauthorised exercise of the right of retention by the relevant subcontractor, supplier or manufacturer.

33 Exclusion of cost-increasing circumstances

- 33.1 The Supplier had the opportunity to take all relevant factors into account when determining the contract price for Subcontracting Services. WeMake and the Supplier agree in that regard that the Supplier cannot and will not claim any increase in the contract sum on the basis of cost-increasing or other circumstances within the meaning of Article 7:753 of the Civil Code or Article 6:258 of the Civil Code, respectively, even if such cost-increasing circumstances arise or come to light after entry into the Agreement, without them being attributable to the Supplier or the Supplier not having to take the likelihood of such circumstances into account in determining the contract sum. The risk of such cost-increasing or other circumstances arising after entry into the Agreement lies entirely with the Supplier, and WeMake and the Supplier have already factored that risk into the contract sum.
