

# **General Terms and Conditions**

Supply and installation of mechanical,  
electrotechnical and electronic products

# General Terms and Conditions



Version: 1.0

## INTRODUCTORY PROVISION

**1.Valtech NV** and its affiliated companies agree to develop, sell, deliver and install the Products at the agreed Contract Price, provided that the Client accepts these General Terms and Conditions. These General Terms and Conditions apply to all sales, including orders placed electronically. If a separate agreement is mutually agreed and signed, that agreement takes precedence over these General Terms and Conditions. All terms proposed by the Client are null and void.

### DEFINITIONS

2. In these General Terms and Conditions, the following terms have the following meanings:

- "Contractor": Valtech NV, with registered office at Krommebeekstraat 41, 8930 Menen, Belgium, registered with the Crossroads Bank for Enterprises under number 0466.148.445, and all its affiliated companies.
- "Contract": the Written agreement in the form of a Purchase Order, Order Confirmation or other document, between the parties relating to the delivery of the Product and execution of the Work, and all annexes thereto, including Written agreed amendments to and additions to the aforementioned documents.
- "Contract Price": the price agreed for the Work. This is a fixed price or, if the parties have expressly agreed a price revision clause, the revised price.
- "Services": all performances carried out by the Contractor that do not fall under the Product or the Work, including but not limited to: advice, support, interventions, repairs, maintenance and other similar activities, regardless of the timing or method of remuneration.
- "Gross Negligence": the intentional or reckless failure to exercise the care that is clearly required in the circumstances in order to prevent serious consequences for the other party.
- "Written": communication in the form of a document signed by both parties, or in the form of a letter, electronic mail, fax or other means agreed by the parties.
- "Product": the goods to be delivered under the Contract, including software and documentation.
- "Site": the location where the Product is to be installed, including the space required for unloading, storage and local transport of the Product and the installation equipment.
- "Work": the Product, installation of the Product and all other activities to be carried out by the Contractor under the Contract. If the Work is accepted in separate parts under the Contract, and these parts are intended to be used independently of one another, these conditions apply to each separate part. The term "Work" then refers to the relevant part.

### PRODUCTINFORMATIE/INSTRUCTIES

3. Information and specifications included in general product documentation and price lists, regardless of their form, are only binding insofar as they are expressly incorporated into the Contract by Written reference.

4. The Contractor provides free of charge the information, drawings and instructions that the Contractor deems necessary for commissioning, use and maintenance of the Work. One paper copy and a digital version of this information, drawings and instructions are provided. The Contractor is not obliged to provide production drawings of the Product or of spare parts.

## INTELLECTUAL PROPERTY AND CONFIDENTIALITY

**5.** All intellectual property rights applicable to the Work, including any software incorporated therein, and to the technical information relating to the Work, vest in the Contractor or, where applicable, in a third party that has authorised the Contractor to grant sub-licences for these rights. Without prejudice to any restrictions agreed between the Contractor and the third party, the Client obtains a non-exclusive, perpetual and transferable right to use these intellectual property rights, but only to the extent necessary for the purpose of the Contract. The Contractor is not obliged to provide the Client with the source code or updates for incorporated software, unless this has been expressly agreed in Writing or is required by law.

This article also applies if the Work and/or software has been developed specifically for the Client, unless otherwise agreed in Writing.

**6.** Technical, commercial and financial information, and information that has been designated as confidential or that must be regarded as confidential by its nature, disclosed orally or in Writing by one party to the other, shall be treated as confidential. The information shall therefore not be used, without the Written consent of the disclosing party, for any purpose other than that for which it was made available. It may not be transferred, communicated or otherwise disclosed to a third party without the Written consent of the disclosing party.

## FACTORY ACCEPTANCE TESTS

**7.** Unless otherwise agreed, the factory acceptance tests provided for in the Contract are carried out at the Contractor's production facility during normal working hours.

If no technical requirements are specified in the Contract, the tests are carried out in accordance with general practice in the relevant industry in the country of production.

**8.** The Contractor gives the Client timely Written notice of these tests, so that the Client may be represented during the tests. If the Client is not represented, the test report is sent to the Client and deemed to be an accurate record.

**9.** If the tests show that the Product does not conform to the Contract, the Contractor shall promptly remedy any deficiency in order to bring the Product into conformity with the Contract. At the Client's request, new tests shall then be carried out, unless the deficiency was of minor importance to the proper functioning of the Work.

**10.** Except for the costs of test materials supplied by the Client, the Contractor bears all costs of tests carried out prior to shipment of the Product. However, the Client bears all travel and accommodation costs of those representing it at these tests.

## PREPARATORY WORK AND WORKING CONDITIONS

**11.** The Contractor provides timely drawings relating to the method of installation of the Product, together with all information required for laying suitable foundations, for providing access to the Product and the necessary equipment at the Site, and for making the necessary connections to the Work.

**12.** The Client carries out preparatory work in a timely manner to ensure that all conditions for enabling the installation of the Product and the proper functioning of the Work are met. This does not relate to preparatory work that is to be carried out by the Contractor under the Contract.

**13.** The preparatory work referred to in article 12 is carried out by the Client in accordance with the drawings and information provided by the Contractor pursuant to article 11. The Client shall in any event ensure structurally sound foundations. If the Client is responsible for transporting the Product to the Site, it shall ensure that the Product is at the Site before the agreed date for commencement of the installation works.

**14.** The Client shall ensure that the following conditions are met:

**a)** the Contractor's personnel can commence work in accordance with the agreed schedule and can work during normal working hours. To the extent that the Contractor deems it necessary, it may also carry out work outside normal working hours, but on the basis of prior Written agreement between the parties on the exact date and time;

**b)** it has informed the Contractor in Writing in good time before the commencement of installation of all relevant safety regulations applicable at the Site that must be observed by the Contractor's personnel. Installation shall not be carried out in an unhealthy or unsafe environment. Before the commencement of installation, all necessary safety and precautionary measures shall be taken and shall be maintained throughout the period of the Work;

**c)** the Contractor's personnel can obtain adequate accommodation in the vicinity of the Site and can make use of sanitary facilities and medical services in accordance with internationally accepted standards;

**d)** it makes available to the Contractor, free of charge and in a timely manner at the Site, all necessary cranes, lifting equipment, transport equipment at the Site, auxiliary equipment, machinery, operational materials (including fuels, oils, greases, gas, water, electricity, steam, compressed air, heating, lighting), as well as the Client's measurement and test equipment available at the Site. The Contractor provides a Written specification of its requirements in this regard no later than one month before the agreed date for commencement of the installation works;

**e)** it makes sufficient office space available to the Contractor free of charge at the Site, equipped, where necessary, with reliable and adequately secured digital infrastructure and internet facilities;

**f)** it makes sufficient storage space available to the Contractor free of charge to protect the Product, the tools and equipment intended for installation, and the personal belongings of the Contractor's personnel against theft, loss, damage and deterioration;

**g)** the access routes to the Site are suitable for the necessary transport of the Product and the Contractor's equipment;

**h)** all necessary permits and other official approvals for carrying out the installation works are available, insofar as these can only be obtained by the Client. The Contractor provides support by supplying information and documentation that the Client reasonably requests in order to obtain these permits and approvals.

**15.** Upon timely request by the Contractor, the Client makes available to the Contractor, free of charge, the labour and operating personnel specified in the Contract or that may reasonably be required for the Contract. The persons made available by the Client under this article use their own tools. The Contractor is not liable for the labour made available by the Client or for any act or omission of the persons concerned.

**16.** If the Contractor so requires, the Client provides, free of charge, all necessary assistance for the import and re-export of the Contractor's equipment and tools, including assistance with customs formalities.

**17.** The Client provides, free of charge, all necessary assistance to ensure that the Contractor's personnel obtain in a timely manner visas and other official entry, exit and work permits and, where necessary, fiscal documentation required by law in the Client's country, as well as access to the Site.

**18.** No later than upon notification by the Contractor that the Product is ready for shipment from the place of production, each party shall appoint in Writing a representative to act on its behalf during the works at the Site.

The representatives shall be present at or near the Site during working hours. Unless otherwise indicated in the Contract, each representative shall be authorised to act on behalf of the relevant party in all matters relating to the installation works. Where these General Terms and Conditions require Written notice to be given, the representative is always authorised to receive such notice on behalf of the relevant party.

## DEFAULT BY THE CLIENT

**19.** If the Client anticipates that it will not be able to take delivery of the Product on the agreed delivery date or to fulfil its obligations for carrying out the installation in a timely manner, as referred to in articles 12 to 17, it shall immediately notify the Contractor in Writing, stating the reasons and, where possible, the date on which it will be able to fulfil its obligations.

**20.** Without prejudice to the Contractor's rights under article 21, the following applies if the Client fails to take delivery of the Product on the agreed delivery date or fails to correctly and timely fulfil its obligations for carrying out the installation, as referred to in articles 12 to 17:

**a)** the Contractor may, if it so wishes, choose to fulfil the Client's obligations itself or have them fulfilled by a third party, or take other measures that are appropriate in the circumstances to prevent or limit the consequences of the Client's default;

**b)** the Contractor may suspend its performance of the Contract in whole or in part. It shall notify the Client of this suspension without delay and in Writing;

**c)** if the Product has not yet been delivered to the Site, the Contractor shall arrange for storage of the Product, at the Client's risk. If the Client specifically requests it, the Contractor shall also arrange for insurance of the Product up to and including transfer of ownership of the Product;

**d)** the Client shall pay any part of the Contract Price that would have become due but for this default;

**e)** the Client shall reimburse the Contractor for all costs arising from points a) or c) and all other costs reasonably incurred by the Contractor as a result of the Client's default.

**21.** If acceptance is prevented by the Client's default as referred to in article 20, and this is not the result of a circumstance referred to in article 71, the Contractor may also set a final reasonable deadline (with a maximum of three months) in Writing for the Client to remedy its default.

If the Client does not remedy its default within this period, and this is not due to a reason attributable to the Contractor or a circumstance referred to in article 71, the Contractor may terminate the Contract in whole or in part by Written notice. The Contractor shall then be entitled to compensation for the loss it suffers as a result of the Client's default, including any consequential and indirect loss. The compensation shall not exceed that part of the Contract Price relating to the part of the Work for which the Contract is terminated.

## LAWS, REGULATIONS AND RULES

**22.** The Contractor shall ensure that the Work is carried out and complies with the laws, regulations and rules applicable to the Work. If the Contractor so requires, the Client shall provide in Writing the necessary information relating to these laws, regulations and rules.

**23.** The Contractor shall carry out all modification works necessary to comply with changes in the laws, regulations and rules referred to in article 22, or their generally accepted interpretation, occurring between the date of quotation and acceptance. The additional costs and other consequences of these changes are for the Client's account, including the modification works.

**24.** The Contractor shall be paid for all time spent and all costs incurred for modifications to the Work at its usual rates and prices. Before implementing the modifications, the Contractor shall send the Client an estimate of the effects in terms of time and costs.

## MODIFICATIONS

**25.** For as long as the Work has not been accepted, the Client is entitled to request modifications to the scope, design and construction of the Work.

**26.** Requests for modification shall be submitted to the Contractor in Writing and shall contain an accurate description of the modification.

**27.** As soon as possible after receipt of a modification request, the Contractor shall inform the Client in Writing whether the modification can be implemented and, if so, shall send the Client a quotation specifying the effects on the Contract Price, the acceptance period and other conditions of the Contract. The quotation shall state the deadline for acceptance. If the Contractor's quotation is not accepted by the deadline for acceptance, the execution of the Contract shall continue without application of the requested modification.

## TRANSFER OF RISK

**28.** The risk of loss or damage to the Product transfers to the Client in accordance with the agreed trade term, which is determined in accordance with the INCOTERMS® in force on the date of conclusion of the Contract. If no specific trade term has been agreed, delivery of the Product shall take place Free Carrier (FCA) at the place where the Product is produced. If, in the case of Free Carrier delivery, the Contractor takes on the shipment of the Product to the Site at the Client's request, the risk nevertheless transfers to the Client as soon as the Product is handed over to the first carrier.

The Client bears exclusive responsibility for taking out and maintaining adequate (fire) insurance in respect of the Work and the building in which the Work is located, from the transfer of risk in accordance with article 28 and at least until the transfer of ownership to the Client in accordance with this article.

The risk of loss or damage to all items that do not form part of the Work rests with the Client. Loss or damage to the Work is, however, at the Contractor's risk insofar as it is attributable to the Contractor's negligence.

Partial deliveries are permitted, unless otherwise agreed in Writing.  
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### SITE ACCEPTANCE TESTS

**29.** After the Work has been completed, unless otherwise agreed, site acceptance tests shall be carried out to determine whether the Work meets the contractual requirements for acceptance.

The Contractor shall give the Client Written notice that the Work is ready for acceptance. This notice shall state a date for site acceptance tests, allowing the Client sufficient time to prepare for these tests and to be represented at them.

The costs of the site acceptance tests are for the Client's account. The Contractor shall, however, bear the costs of its own personnel and its other representatives.

**30.** The Client shall make available, free of charge, the energy, lubricants, water, fuel, raw materials and other items required for the site acceptance test and for the final adjustments for these tests. It shall also make available the necessary equipment, workers and other support for carrying out the site acceptance tests, all free of charge.

**31.** If the Client, after the notification referred to in article 29, fails to meet its obligations under article 30 or otherwise prevents the site acceptance tests, the tests shall be deemed to have been completed successfully on the date stated in the Contractor's notification for the commencement of site acceptance tests.

**32.** The site acceptance tests are carried out during normal working hours. If no technical requirements are specified in the Contract, the tests are carried out in accordance with general practice in the relevant industry in the Client's country.

**33.** The Contractor shall prepare a report of the site acceptance tests, which shall be sent to the Client. If the Client was not represented at the tests despite the notification referred to in article 29, the test report shall be deemed by the Client to be an accurate record.

**34.** If the site acceptance tests show that the Work does not conform to the Contract, the Contractor shall remedy the deficiencies as soon as possible. If the Client immediately requests this in Writing, new tests shall be carried out in accordance with articles 29 to 33, unless the deficiency does not affect the proper functioning of the Work.

## ACCEPTANCE

**35.** Acceptance of the Work shall be deemed to take place, subject to the conditions in article 47, and:

- a)** if the site acceptance tests have been completed successfully or are deemed to have been completed successfully pursuant to article 31;
- b)** if the parties have agreed that no site acceptance tests will be carried out, as soon as the Client receives Written notice from the Contractor that the Work has been delivered, unless the Client demonstrates within seven days of this notice that the Work does not meet the contractual requirements for acceptance. Minor deficiencies that do not affect the functioning of the Work shall not prevent acceptance.

The Contractor's obligation to install the Product at the Site is fulfilled once the Work has been accepted pursuant to this article 35, without prejudice to its obligation to remedy any minor deficiencies.

**36.** The Client is not entitled to use the Work or any part thereof prior to acceptance. If the Client does so without the Contractor's Written consent, the Work shall be deemed to have been accepted. The Contractor shall then be released from its obligation to carry out site acceptance tests.

**37.** The period referred to in article 54 commences as soon as the Work has been accepted in accordance with articles 35 or 36. Upon Written request from the Contractor, the Client shall provide a statement regarding the time at which acceptance took place. If the Client fails to do so, this shall have no effect on acceptance pursuant to articles 35 and 36.

## CONTRACTOR DELAY

**38.** The delivery period commences as soon as the Contract is concluded and all agreed conditions that the Client must first fulfil have been met, such as official formalities and payments and securities due upon conclusion of the Contract. The established delivery periods are purely indicative and therefore not binding. Delay in delivery does not give rise to any right to compensation or interest unless formally stipulated. In the event of force majeure (including strike, interruption or delay in the supply of raw materials), the delivery period shall be suspended by operation of law and the buyer may not claim compensation.

**39.** If the Contractor anticipates that it will not be able to fulfil its obligations in connection with acceptance before or on the agreed date for acceptance, it shall immediately notify the Client in Writing, stating the reason and, where possible, the date on which acceptance can be expected.

**40.** The Contractor is entitled to extend the acceptance period if delay occurs:

- a)** due to one of the circumstances referred to in article 71; or
- b)** due to modification works pursuant to article 23, or articles 25 to 27; or
- c)** due to suspension pursuant to articles 20, 45 or 74; or
- d)** due to an act or omission of the Client or any other circumstance attributable to the Client.

This extension shall be as long as necessary, taking all relevant circumstances into account. This provision applies regardless of whether the cause of the delay occurs before or after the agreed date for acceptance.

### SERVICES

**41.** Unless expressly otherwise agreed, the Services provided by the Contractor shall be remunerated on a time and costs basis. The following items shall be invoiced separately on the Contractor's invoice:

**a)** all reasonable travel costs incurred by the Contractor for its personnel and for transport of their equipment and personal belongings, in accordance with the mode and class of travel stated in the Contract, insofar as the Contract provides for this;

**b)** accommodation costs and other living expenses, including appropriate allowances for the Contractor's personnel for each day of absence from home, including days on which no work is carried out and public holidays. Daily allowances are also due during incapacity to work as a result of illness or an accident;

**c)** time worked, calculated on the basis of the number of hours approved by the Client as evidenced by the timesheets signed by the Client. Special rates shall be charged for overtime, work on Sundays and public holidays, and night work. The rates stated in the Contract shall apply or, in the absence thereof, the usual rates charged by the Contractor. The hourly rate includes the normal wear and tear of the Contractor's tools and light equipment, unless otherwise provided;

**d)** the time required for:

- preparation and formalities for the outward and return journey of the Contractor's personnel;
- the outward and return journey and other travel to which the personnel is entitled under applicable laws, regulations or collective agreements in the Contractor's country;
- the daily travel of the Contractor's personnel between their place of residence and the Site, if and to the extent that this travel time, one way, exceeds half an hour and no suitable accommodation closer to the Site is available;

**e)** all expenditure incurred by the Contractor in accordance with the Contract to provide materials, including the necessary spare parts and an amount for the possible use of heavy equipment by the Contractor;

**f)** all taxes or levies on the invoice that must be paid by the Contractor in the country where installation takes place;

**g)** all costs that the Contractor could not reasonably have foreseen and that are caused by a circumstance not attributable to the Contractor;

**h)** all additional costs resulting from the applicability of mandatory social law rules in the Client's country;

**i)** all costs, expenses and time spent as a result of additional work not attributable to the Contractor.

If these costs are time-related, they shall be charged at the usual rates charged by the Contractor.

All additional costs are deemed not to form part of the Contract Price and shall therefore be invoiced separately, namely:

### PAYMENT

**42.** Payment shall be made within seven (7) days of the invoice date, unless a different payment term is expressly stated on the invoice.

Unless otherwise agreed, the Contract Price shall be invoiced as follows where installation is included in a fixed Contract Price:

- 30% of the Contract Price upon conclusion of the Contract;
- 60% of the Contract Price upon delivery of the Product pursuant to article 28;
- the remaining portion of the Contract Price upon acceptance.

**43.** Where installation is carried out at a fixed price, all costs listed below shall be deemed to be included in the Contract Price:

**a)** all reasonable travel costs incurred by the Contractor for its personnel and for transport of their equipment and personal belongings, in accordance with the mode and class of travel stated in the Contract, insofar as the Contract provides for this;

**b)** accommodation costs and other living expenses, including appropriate allowances for the Contractor's personnel for each day of absence from home, including days on which no work is carried out and public holidays. Daily allowances are also due

during incapacity to work as a result of illness or an accident;

**c)** time worked, calculated on the basis of the number of hours approved by the Client as evidenced by the timesheets signed by the Client. Special rates shall be charged for overtime, work on Sundays and public holidays, and night work. The rates stated in the Contract shall apply or, in the absence thereof, the usual rates charged by the Contractor. The hourly rate includes the normal wear and tear of the Contractor's tools and light equipment, unless otherwise provided;

**d)** the time required for:

- preparation and formalities for the outward and return journey of the Contractor's personnel;
- the outward and return journey and other travel to which the personnel is entitled under applicable laws, regulations or collective agreements in the Contractor's country;
- the daily travel of the Contractor's personnel between their place of residence and the Site, if and to the extent that this travel time, one way, exceeds half an hour and no suitable accommodation closer to the Site is available;

All additional costs are deemed not to form part of the Contract Price and shall therefore be invoiced separately, namely:

**e)** all taxes or levies on the invoice that must be paid by the Contractor in the country where installation takes place;

**f)** all costs that the Contractor could not reasonably have foreseen and that are caused by a circumstance not attributable to the Contractor;

**g)** all additional costs resulting from the applicability of mandatory social law rules in the Client's country;

**h)** all costs, expenses and time spent as a result of additional work not attributable to the Contractor.

If these costs are time-related, they shall be charged at the usual rates charged by the Contractor.

**44.** If delay in the installation occurs due to a cause not attributable to the Contractor and not resulting from one of the circumstances referred to in article 71, the Client shall indemnify the Contractor against any additional costs arising therefrom, including but not limited to:

**a)** wachttijd en tijd voor extra reizen;

**b)** costs and additional work resulting from the delay, including removal, securing and re-erection of installation equipment;

**c)** additional costs, including costs arising from the Contractor's equipment being required to remain at the Site for longer than expected;

**d)** additional travel and accommodation costs for the Contractor's personnel;

**e)** additional financing and insurance costs;

**f)** additional project management costs;

**g)** other demonstrated costs incurred by the Contractor as a result of the delay.

If these costs are time-related, they shall be charged at the usual rates charged by the Contractor.

**45.** Regardless of the method of payment, payment shall not be deemed to have taken place until the amount due has been irrevocably credited to the Contractor's account.

**46.** If the Client has not paid on an agreed date, the Contractor shall be entitled to interest from the day the amount becomes due and to reimbursement of collection costs. The interest rate shall be as agreed by the parties or otherwise 8 percentage points above the interest rate applied by the European Central Bank for its main refinancing operations (MRO). The reimbursement of collection costs amounts to 1 percent of the amount (with a minimum of EUR 2,500, adjusted to the health index (reference date: 01/01/2026)) on which late payment interest is due.

In the event of late payment or if an agreed security is not provided by the Client at the stipulated time, the Contractor may, after Written notice to the Client, suspend performance of the Contract until it has received payment or, where applicable, until the Client has provided the agreed security.

If the Client has not paid the amount due within three months, the Contractor shall have the right to terminate the Contract by Written notice to the Client and shall be entitled, in addition to the interest and reimbursement of collection costs under this article, to compensation for the costs and loss it incurs.

## RETENTION OF TITLE

**47.** The Product shall remain the property of the Contractor until full payment therefor has been made, including payment for the installation.

At the Contractor's request, the Client shall cooperate in taking measures to protect the Contractor's right of ownership in respect of the Product.

The retention of title does not affect the transfer of risk pursuant to article 28.

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The retention of title does not affect the transfer of risk pursuant to article 28.

## LIABILITY FOR DAMAGE PRIOR TO ACCEPTANCE

**48.** The Contractor shall only be liable for damage to the Client's property occurring prior to acceptance of the Work if it is proven that such damage is attributable to the Contractor or to a person for whom the Contractor is responsible in connection with the performance of the Contract. The Contractor shall under no circumstances be liable for production losses, loss of profit or any other consequential or indirect loss.

**49.** If the Contractor is not liable for damage to the Work, the Client may nevertheless require the Contractor to remedy the damage, but at the Client's expense.

## LIABILITY FOR DEFECTS

**50.** The Work must conform to the Contract. The Contractor is obliged to remedy any defect in or non-conformity of the Work (hereinafter referred to as "defect(s)") arising from faulty design or materials or poor workmanship, in accordance with this article and articles 51 to 65.

**51.** The Contractor is not liable for defects arising from a design, materials or production methods stipulated or specified by the Client.

**52.** The Contractor is only liable for defects occurring under conditions of use provided for in the Contract and with correct use of the Work.

**53.** The Contractor is not liable for defects caused by circumstances occurring after the transfer of risk to the Client, such as defects resulting from poor or improper maintenance or repair by the Client, or modification carried out by the Client or by a third party at the Client's request. The Contractor is likewise not liable for normal wear and tear and deterioration in quality.

**54.** The Contractor's liability is limited to defects in the Work occurring within one year of acceptance. If the degree of use of the Work is higher than agreed, this period shall be reduced proportionally. In the event of delay in acceptance due to reasons attributable to the Client, the Contractor's liability period for defects shall, subject to the provisions of article 55, not be extended beyond 18 months after delivery of the Product.

**55.** After remedying a defect in a component of the Work, the Contractor shall be liable, for one year under the same conditions as for the original Work, for defects in the repaired or replacement component. For the other components of the Work, the period referred to in article 54 shall only be extended by the duration for which and to the extent that the Work could not be used due to the defect.

The Contractor shall be liable for defects in any component of the Work for a maximum of one year from the end of the liability period referred to in article 54 or from the end of another liability period agreed between the parties.

**56.** The Client shall notify the Contractor as soon as possible in Writing of any defect that occurs. The notification shall contain a description of the defect. This notification must in any event take place no later than two weeks after the expiry of the period referred to in article 54 or the extended period pursuant to article 55, if applicable.

If the Client fails to notify the Contractor in Writing of a defect within the periods referred to in the first paragraph of this article, it shall forfeit its right to have the defect remedied and any other claim in respect of the defect.

If the defect may cause damage, the Client shall notify the Contractor immediately in Writing. The Client bears the risk of damage to the Work arising from its failure to give such notice. The Client shall take reasonable measures to limit the damage as much as possible and shall act in accordance with the Contractor's instructions in this regard.

**57.** As soon as the Contractor receives a notification pursuant to article 56, it shall remedy the defect at its own expense and as soon as possible, in accordance with articles 50 to 65. The timing of the remedial works shall be chosen so as not to unnecessarily impede the Client's activities.

Remedial works shall be carried out at the Site, unless the Contractor considers it more appropriate, having regard to the interests of both parties, for the defective component or the Product itself to be sent to it or to a destination designated by it.

For remedial works at the Site, articles 14 to 17 and 48 apply by analogy.

If the defect can be remedied by replacement or repair of the relevant component and dismantling and reassembly of that component do not require specialist knowledge, the Contractor may require the relevant component to be sent to it or to a destination designated by it. In that case, the Contractor has fulfilled its obligations in respect of the defect by delivering a properly repaired component or a replacement component to the Client.

**58.** The Client shall at its own expense ensure safe access to the Work and the possible temporary shutdown of other equipment than the Work, insofar as this is necessary for remedying the defect.

**59.** Unless otherwise agreed, the necessary transport of the Product or parts thereof to and from the Contractor for the purpose of remedying defects for which the Contractor is liable shall be at the Contractor's expense and risk. The Client shall comply with the Contractor's instructions regarding this transport.

**60.** Unless otherwise agreed, the Client shall bear the additional costs incurred by the Contractor in remedying the defect due to the Work being located at a place other than the Site.

**61.** Defective components that have been replaced shall be placed at the Contractor's disposal and become its property. The shipping costs of these components are for the Client's account.

**62.** If, following the notification provided for in article 56 by the Client, no defect is found for which the Contractor is liable, the Contractor shall be entitled to reimbursement of the costs incurred by it as a result of this notification.

**63.** If the Contractor fails to fulfil its obligations under article 57, the Client may, by Written notice, set a final reasonable period for the Contractor to fulfil its obligations, which period shall be no less than one week.

If the Contractor fails to fulfil its obligations within this final period, the Client may carry out or have carried out by a third party the necessary remedial works at the Contractor's expense and risk, provided that the Client or the third party does so in a professional manner.

If remedial works have been successfully carried out by the Client or a third party, the Contractor shall, upon reimbursement of the reasonable costs incurred by the Client, be released from all liability in respect of the said defect.

**64.** If the defect is not successfully remedied as provided for in article 63:

**a)** the Client shall be entitled to a reduction in the Contract Price proportional to the diminution in value of the Work, provided that this reduction shall in no event exceed 15 percent of the Contract Price; or

**b)** if the defect is so serious that it substantially deprives the Client of the benefit of the Contract for the Work or a material part thereof, the Client may, by Written notice to the Contractor, terminate the Contract for the part of the Work that cannot be used in the manner intended by the parties due to the defect. The Client shall then be entitled to compensation for its loss, including all consequential and indirect loss, up to a maximum of 15 percent of the part of the Contract Price relating to the part of the Work for which the Contract is terminated.

**65.** Beyond what is provided for in articles 50 to 54, the Contractor shall not be liable for defects. The Contractor shall therefore not be liable for any other loss arising from the defect, including production loss, loss of profit and other indirect loss. This limitation of the Contractor's liability shall not apply in the event of Gross Negligence.

### **LIABILITY FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

**66.** Unless otherwise agreed, the Contractor shall be liable to the Client, pursuant to this article and articles 67 to 70, for infringement by the Work of patents, copyrights or other intellectual property rights of a third party in the country where the Site is located. The Contractor shall in that case indemnify the Client and hold the Client harmless against third-party claims, provided that these claims have been confirmed by a final and binding judgment or in a settlement approved by the Contractor. The Contractor shall, however, not be liable for production loss, loss of profit, diminution of the possibilities of use and loss of contracts of the Client, unless the Contractor has been guilty of Gross Negligence.

**67.** The Contractor shall not be liable for infringement of intellectual property rights arising from:

- use of the Work outside the country where the Site is located;
- use of the Work other than as agreed or in a manner that the Contractor could not have foreseen;
- use of the Work in combination with equipment or software not supplied by the Contractor; or
- a design or construction stipulated or specified by the Client.

**68.** The Contractor shall only be liable if the Client informs the Contractor as soon as possible in Writing of the claims received as referred to in article 66, and allows the Contractor to decide on how to handle the claim.

Defence against claims referred to in article 66 shall be conducted at the Contractor's expense. The Contractor shall reimburse the Client for all amounts the Client must pay pursuant to a final and binding judgment or a settlement approved by the Contractor.

**69.** Infringement of intellectual property rights shall, at the Contractor's option, be remedied by:

- obtaining for the Client the right to use the Work;
- modifying the Work so that it no longer constitutes an infringement; or
- replacing the Product with another product that can be used without infringing applicable intellectual property rights.

## ALLOCATION OF LIABILITY FOR DAMAGE CAUSED BY THE WORK

**70.** The Contractor shall not be liable for any damage to property caused by the Work after acceptance while the Work is in the Client's possession. The Contractor shall furthermore not be liable for damage to products manufactured by the Client or to products of which the Client's products form part.

If the Contractor is held liable towards a third party for damage to property as described in the preceding paragraph, the Client shall be obliged to indemnify, assist in legal proceedings and hold harmless the Contractor.

If a third party brings a claim for compensation as described in this article against one of the parties, the latter shall immediately notify the other party in Writing thereof.

The Contractor and the Client are mutually obliged to submit to the jurisdiction of the judicial or arbitral tribunal dealing with a claim for damages brought against one of the parties on the basis of alleged damage caused by the Work. The liability between the Contractor and the Client shall, however, be determined in accordance with article 76.

The limitation of the Contractor's liability arising from the first paragraph of this article shall not apply if the Contractor has been guilty of Gross Negligence.

### FORCE MAJEURE

**71.** Each party shall have the right to suspend performance of its obligations under the Contract to the extent that

such performance is prevented or made unreasonably burdensome by force majeure, being one of the following circumstances: labour disputes and any circumstance beyond the parties' control, such as fire, war, extensive military mobilisation, insurrection, requisition, seizure, embargo, restrictions on the use of energy, currency and import or export restrictions, epidemics, natural disasters, extreme natural phenomena, acts of terrorism, as well as defects or delays in deliveries by suppliers resulting from one of the circumstances referred to in this article.

A circumstance referred to in this article, regardless of whether it occurs before or after the conclusion of the Contract, shall only give rise to suspension if its effects on the performance of the Contract could not have been foreseen at the time the Contract was concluded.

**72.** The party invoking force majeure shall promptly notify the other party in Writing of the occurrence and cessation of such circumstance. If a party fails to give this notice, the other party shall be entitled to compensation for its additional costs that it could have avoided had it received the said notice.

If force majeure prevents the Client from fulfilling its obligations, the Client shall reimburse the Contractor for the costs incurred for storing, securing and protecting the Work and for preventing unreasonable disruption to the Contractor's other activities.

**73.** Notwithstanding the other consequences that may arise from these General Terms and Conditions, each party shall have the right to terminate the

Contract by Written notice to the other party if performance of the Contract is suspended for more than six months pursuant to article 71.

### **ANTICIPATED NON-PERFORMANCE**

**74.** Each party shall have the right to suspend performance of its obligations under the Contract if it is clear from the circumstances that the other party will not fulfil its obligations. A party that suspends performance of the Contract shall immediately give Written notice thereof to the other party.

### **CONSEQUENTIAL LOSS**

**75.** Unless otherwise stated in these General Terms and Conditions or in the event of Gross Negligence, a party shall not be liable to the other party for production loss, loss of profit, diminution of the possibilities of use, loss of contracts or for any consequential or indirect loss whatsoever, regardless of whether the loss was foreseeable.

### **GESCHILLEN EN TOEPASSELIJK RECHT**

**76.** All disputes arising out of or in connection with the Contract shall be finally settled in accordance with the Arbitration Rules of the International Chamber of Commerce by one or more arbitrators appointed in accordance with those rules.

**77.** The Contract shall be governed by the substantive law of the Contractor's country, namely Belgian law.