

# GENERAL PURCHASE CONDITIONS OF DURA VERMEER JANUARY 2020

Contents

Section 1: General

Section 2: Supplies

Section 3: (Sub)contracting and hiring-in

## SECTION 1. GENERAL

### Article 1: Definitions and applicability:

- 1 In these General Purchase Conditions ("GPC"), the following terms have the following meanings:
  - a) Dura Vermeer: Dura Vermeer Groep NV and/or one or more of its subsidiary companies;
  - b) Contractor: the party with whom Dura Vermeer negotiates on the creation of the Contract and/or with whom Dura Vermeer concludes the Contract;
  - c) Subcontractor: a (legal) person who is engaged (directly or indirectly) by Contractor for the execution of the Performance;
  - d) Contract: the contract between Dura Vermeer and Contractor with regard to carrying out the Performance (including the appendices attached thereto);
  - e) Performance: the performance to be carried out by Contractor pursuant to the Contract, consisting of the supply of goods, and/or the execution of works and/or the carrying out of work activities and/or services and/or other work activities and activities relating thereto;
  - f) Main Contract: the contract between the Principal and Dura Vermeer;
  - g) Principal: the client according to the Main Contract;
  - h) Work: the work to be handed over by Dura Vermeer to the Principal pursuant to the Main Contract.
- 2 These GPC are applicable to the Contract and to all requests, price quotations, offers, orders, order confirmations, contracts and other legal acts in the matter of the Performance to be carried out by Contractor.
- 3 Variations from and/or additions to these GPC are only valid if agreed in writing between Dura Vermeer and Contractor.
- 4 General terms and conditions, however described, of Contractor are not applicable to the Contract.
- 5 If a provision of the Contract conflicts with or varies from a provision of these GPC, the provision of the Contract will prevail.
- 6 The invalidity of a provision of the Contract and/or of these GPC does not affect the validity of other provisions of the Contract and these GPC.
- 7 If the Contract (partly) relates to supply of goods, irrespective of the title of the Contract, SECTION 2. SUPPLIES is also applicable, in addition to SECTION 1. GENERAL. In the event of any conflict between provisions of the two sections, the provisions of SECTION 2. SUPPLIES have precedence.
- 8 If the Contract (partly) relates to contracting of work or hiring-in, irrespective of the title of the Contract, SECTION 3. SUBCONTRACTING AND HIRING-IN is also applicable, in addition to SECTION 1. GENERAL. In the event of any conflict between provisions of the two sections, the provisions of SECTION 3. SUBCONTRACTING have precedence.

### **Article 2: Price quotations of Contractor**

- 1 A request of Dura Vermeer to issue a price quotation is without obligation. All costs involved in formulating a price quotation / offer are payable by Contractor.
- 2 Contractor's price quotation is valid for a period of at least 6 weeks. If Contractor issues his price quotation in the context of participating in a tendering procedure by Dura Vermeer, Contractor's price quotation must be valid until six months after the Work has been awarded by the Principal to Dura Vermeer.
- 3 Contractor guarantees that the price quotation(s) has (have) been formulated in a lawful manner, and in particular that this (these) price quotation(s) has (have) been formulated without agreement or mutually co-ordinated behaviours with third parties, as a result of which competition has been or will be impeded or restricted and/or prices therefore have been or will be raised.

### **Article 3: Creation of the Contract**

- 1 A Contract is only created:
  - a) by Contractor signing the unaltered Contract that Dura Vermeer has sent to Contractor with the request to Contractor to return it, unaltered and signed, within 8 days after the date of receipt; or,
  - b) if Contractor fails to return the Contract within 8 days after the date of receipt, by not lodging a written objection against the content of the Contract or by starting to execute the Contract. As a result of this, Contractor will be deemed to have accepted the Contract under the conditions stated in the Contract and with applicability of the GPC. As long as the Contract has not been signed and returned, Dura Vermeer will not proceed to make any payment.
- 2 If two or more Contractors have jointly (been deemed to have) accepted the Contract, they are jointly and severally liable for carrying out the Performance and the consequences arising therefrom.
- 3 If the Contract contains any manifest inconsistencies and/or errors and/or omissions, Contractor must notify Dura Vermeer of them as soon as possible, before he proceeds to sign or (if this occurs earlier) to execute the Contract.
- 4 Additions to and changes of provisions of the Contract are only binding on Dura Vermeer if they have been accepted in writing by Dura Vermeer.
- 5 The Contract is entered into under the suspensive conditions that the Main Contract is created and that the engagement of Contractor is approved by the Principal.

### **Article 4: Execution of the Contract**

- 1 The Contract is also understood to mean all work activities that, by their nature, belong to the Contract or Performance. Such supplies / work activities therefore give no entitlement to additional payment.
- 2 Contractor is obliged, in executing the Contract, to observe the requirements of good and proper work, and the requirements and instructions of authorities and utility companies.
- 3 Contractor is not permitted, without Dura Vermeer's permission, concerning the Performance, to make or maintain contact directly or via any party other than Dura Vermeer with the Principal and/or his advisors and representatives, nor to issue price quotations and/or offers to him (them) for any changes or additions regarding the Performance.

- 4 The Contract must be executed by Contractor in accordance with Dura Vermeer's time schedule and in such a way that the work activities of Dura Vermeer and/or third parties are not disrupted. In the event of (threatening) variation from the time schedule, the parties will enter into discussion with each other as soon as possible concerning the possible consequences of that variation.
- 5 Contractor himself is responsible for the required tools and equipment and will periodically test this equipment in accordance with the legal requirements and provide it with a test certificate. Contractor will show the test reports on request.

#### **Article 5: Collective Labour Agreement, legislation, regulations and permits**

- 1 Contractor is deemed to be familiar with all regulations laid down by or pursuant to the law with regard to the Performance and must comply with and observe them. Granted permits or exemptions relating to the execution of the Performance are available to Contractor for inspection.  
Contractor will compensate Dura Vermeer for all damage and costs caused by non-compliance with these regulations and permits, and will indemnify Dura Vermeer against claims of third parties in the matter, including all measures taken by the authorities to enforce those regulations.
- 2 Contractor is obliged to comply with the provisions of the Collective Labour Agreement (CLA) applicable to the work activities. If the CLA Construction & Infrastructure is applicable, Contractor must comply with the provisions of this CLA in respect of all individual employment contracts to which this CLA relates. For a Contractor who in turn engages a Subcontractor, the same provisions apply as those imposed on Dura Vermeer in Article 5 of this CLA. Contractor will stipulate this obligation in the contract with his Subcontractor and will also stipulate in the contract that this obligation must be stipulated in all subsequent contracts to the end of the subcontracting chain (passed-down obligation).
- 3 Contractor will make it possible for Dura Vermeer to ascertain that Contractor complies with the agreements as referred to in this article.
- 4 Contractor himself will obtain the permits required in connection with the execution of the Contract, unless otherwise agreed in the Contract. He also guarantees that Subcontractors have the required permits.

#### **Article 6: Inspection and testing**

- 1 Dura Vermeer, the Principal and/or the site management have the right to inspect and/or test (a part of) the Performance during the processing, manufacture, storage or transport. Contractor will make available to Dura Vermeer, for the purpose of the inspection and/or testing, the facilities, equipment and personnel needed to conduct the inspection and/or testing.
- 2 Contractor will ensure that the Performance is realised in accordance with the agreed quality standards. At Dura Vermeer's request, Contractor will demonstrate this.
- 3 Contractor can derive no rights from the results of an inspection and/or test.
- 4 If, in an inspection or test, Dura Vermeer rejects (a part of) the Performance, Contractor will rectify or replace (the rejected part of) the Performance at his own expense and risk.
- 5 If Contractor does not replace or rectify the rejected Performance or the rejected part of the Performance, Dura Vermeer has the right to replace or rectify (or cause to be replaced or rectified) the rejected Performance or the rejected part of the Performance at Contractor's expense and risk.

- 6 Approval, inspection, testing and/or rectification of the Performance after rejection does not discharge Contractor from any warranty or liability pursuant to the Contract or the law.

**Article 7: Suspension and offset**

- 1 If Contractor does not fulfil his obligations and/or in the case of rejection of the Performance as referred to in Articles 6, 16 and 23, Dura Vermeer can suspend its payment obligations towards Contractor, until Contractor has fulfilled his obligations.
- 2 Dura Vermeer can offset the amounts payable by Dura Vermeer to Contractor, in connection with the Contract, against all claims that Dura Vermeer and/or (a) party(-ies) affiliated with Dura Vermeer Groep NV has (have) against Contractor and/or (a) party(-ies) affiliated therewith.
- 3 Dura Vermeer can offset amounts payable by Dura Vermeer to Contractor, in connection with the Contract, against claims that are not yet due and payable, which Dura Vermeer has against Contractor in connection with wage tax and national insurance contributions and turnover tax that have not been paid by Contractor and/or his Subcontractors, which can be claimed from Dura Vermeer pursuant to Article 34 or 35 of the Collection of State Taxes Act 1990.
- 4 In the event of (threatening) bankruptcy of Contractor, Dura Vermeer has the right to pay claims of his Subcontractors against Contractor with regard to the Performance directly to those Subcontractors. Contractor will be simultaneously informed of this by Dura Vermeer. In that case, the same amount will be deducted from Contractor's claim against Dura Vermeer.
- 5 In the event of suspension of payments and (threatening) bankruptcy of Contractor, Dura Vermeer has the right to suspend its payment obligations until Dura Vermeer has received an indemnifying declaration from the Dutch Tax and Customs Administration, showing that Dura Vermeer will not be held liable pursuant to Article 34 or 35 of the Collection of State Taxes Act 1990 for the wage tax and national insurance contributions and turnover tax referred to in the aforesaid articles of law, that have wrongfully not been paid by Contractor and/or his Subcontractors. The obligation to obtain the said indemnifying declaration lies with Contractor.
- 6 Contractor waives any possible right of suspension and/or right of retention, and every right to setoff. Contractor imposes the stipulation on the third parties engaged by him that they also waive their right of retention.

**Article 8: Prohibition of contracting-out and assignment**

- 1 Contractor is not authorised to cause the Performance or a part thereof to be executed by a third party, or to transfer his rights arising from the Contract, except after obtaining Dura Vermeer's written approval.
- 2 If Contractor, with due observance of Article 8.1, commissions the execution of the Performance, in full or in part, to a third party, he must enter into a written contract with that third party. The conditions of the Contract must form an integral part thereof, on the understanding that Contractor occupies the legal position of client therein and the Subcontractor occupies the legal position of contractor. By means of a perpetual clause, Contractor will impose the obligations pursuant to this article on his Subcontractor, subject to a penalty, immediately due and payable on Dura Vermeer's demand, equal to the part of the contract sum that is designated as the wage costs component, without prejudice to Dura Vermeer's right to full compensation for damage.
- 3 Without Dura Vermeer's prior written permission, claims that Contractor has or will acquire pursuant to the Contract are not transferable or pledgable. This prohibition has property law effect, as referred to in Article 3:83(2) of the Netherlands Civil Code.

### **Article 9: Intellectual property and data breaches**

- 1 Data, models, drawings, illustrations, calculations, working methods and processes supplied by Dura Vermeer to Contractor, and the intellectual property rights therein, remain the property of Dura Vermeer and may not, other than for the purpose of the Performance, be used, copied or supplied or disclosed to third parties by Contractor.
- 2 Data, models, drawings, illustrations, calculations, working methods and processes that Contractor has developed in collaboration with, or on the instruction of Dura Vermeer, become the property of Dura Vermeer and may only be made available to third parties with Dura Vermeer's prior written permission. The knowledge acquired by Contractor during this development is solely at Dura Vermeer's disposal and will not be divulged by Contractor to third parties or used by Contractor for the benefit of himself and/or third parties, unless Dura Vermeer has given written permission prior to that use. Contractor will transfer, insofar as necessary, in advance, unconditionally and for no financial consideration, the intellectual property rights therein to Dura Vermeer, which transfer Dura Vermeer accepts. If a deed or another formal act is needed for the transfer or the recording in relevant registers, Contractor promises his unconditional co-operation therewith, or gives irrevocable authorisation to Dura Vermeer to effect that transfer on behalf of Contractor.
- 3 Contractor guarantees that the carrying out of the Performance does not infringe intellectual property rights of third parties. Contractor indemnifies Dura Vermeer against claims of third parties in the matter and will compensate, at the first request, the damage of Dura Vermeer arising therefrom.
- 4 Contractor is not permitted, without Dura Vermeer's prior written permission, to use the name Dura Vermeer and/or Dura Vermeer's logo.
- 5 Unless otherwise agreed in writing with Contractor, Dura Vermeer can, without further restrictions, store, process and (re-)use all the information that Dura Vermeer acquires in the execution of the Contract.
- 6 Contractor is obliged to immediately notify to Dura Vermeer any data breaches involving personal data for which Dura Vermeer is (jointly) responsible within the meaning of the General Data Protection Regulation, by sending an email to [privacyofficer@duravermeer.nl](mailto:privacyofficer@duravermeer.nl).

### **Article 10: Disputes and applicable law**

- 1 The Contract is governed by Dutch law, with exclusion of the Vienna Sales Convention.
- 2 All disputes arising from or in connection with the Contract will be resolved by arbitration by the Court of Arbitration for the Building Industry in the Netherlands in accordance with its statutes as these read three months before the Contract, such subject to Dura Vermeer's right to have the dispute resolved by the competent civil court or the body as specified in the contract between Dura Vermeer and the Principal.

### **Article 11: Warranties**

- 1 If no warranties are included in the Contract, Contractor must supply to Dura Vermeer all the warranties that Dura Vermeer must supply to the Principal pursuant to the Main Contract, insofar as those warranties relate to the Performance.
- 2 Contractor must rectify the defects that occur during a warranty period as soon as possible, at his own expense and risk and at the first demand of and in consultation with Dura Vermeer, unless Contractor demonstrates that the defects are not at his expense and/or risk.
- 3 Any warranties supplied by Contractor that differ from the warranties referred to earlier in this article, will never have the consequence that the warranties referred to earlier in this article are excluded or are restricted in scope or duration.

- 4 This article does not affect Contractor's liability pursuant to the Contract and the law.
- 5 After replacement or repair within the warranty period, the agreed warranty commences again for the relevant part of the delivered goods.

#### **Article 12: Liability and indemnification**

- 1 Contractor is liable for the damage suffered by Dura Vermeer in consequence of a failure by Contractor to fulfil his obligations pursuant to the Contract and for damage caused by Contractor to property of Dura Vermeer.
- 2 Dura Vermeer has the right to rectify (or cause to be rectified) defects in consequence of a failure by Contractor to fulfil his obligations pursuant to the Contract, at Contractor's expense and risk, if Contractor, after Dura Vermeer has given written notice of default, does not rectify the defect, or does not rectify it in due time or properly. If the rectification cannot be delayed, prior written notice of default – contrary to the provisions of the previous sentence – is not necessary.
- 3 Contractor indemnifies Dura Vermeer against, and Dura Vermeer has the right to recover from Contractor:
  - a) claims of third parties (including the Principal) against Dura Vermeer for compensation of damage suffered in connection with a failure by Contractor to fulfil his legal obligations, or his obligations pursuant to the Contract or an unlawful act of Contractor;
  - b) claims of personnel of Contractor or Subcontractors against Dura Vermeer;
  - c) penalties and/or punitive measures that are imposed on Dura Vermeer and/or the Principal in connection with failure by Contractor to comply with legislation and regulations;
  - d) damage caused by Contractor to property of third parties. At Dura Vermeer's first request, Contractor will pay the amount concerned, plus statutory interest from the time of payment by Dura Vermeer, without prejudice to Dura Vermeer's right to compensation for the actual damage.
- 4 In the event of Contractor's bankruptcy, Dura Vermeer has the right to charge Contractor at least 10% of the price agreed in the Contract, plus the price of any agreed additional work (upward contract variation), and to offset this against Contractor's claims, among other things as compensation for the fact that the Client will not be able to exercise its contractual and/or statutory (warranty) claims in connection with (hidden) defects in the Performance, in consequence of Contractor's bankruptcy. In addition, Dura Vermeer has the right to charge for the actual damage and to offset it against Contractor's claims, if and insofar as the actual damage suffered is more than the aforesaid amount.

#### **Article 13: Insurance**

- 1 Contractor is obliged:
  - a) to take out Public Liability Insurance (AVB) with a cover of at least € 2,500,000 per event, including cover for employer's liability in conformity with Articles 7:658 and 7:611 of the Netherlands Civil Code;
  - b) to insure the equipment that he uses against property damage and personal injury, including the damage arising therefrom, caused by or relating to the use of the equipment;
  - c) to insure his vehicles against third-party liability (in accordance with the Civil Liability Insurance (Motor Vehicles) Act (WAM)), including cover for the work-related risk, for the amounts referred to in the Act.

- 2 If the Contract fully or partially entails that goods are made available, under any title whatsoever, to or by Dura Vermeer, Contractor is obliged to sufficiently insure these goods for the benefit and to the satisfaction of Dura Vermeer, which must in any case include the risk of loss, theft, damage, fire and third-party liability.
- 3 Contractor's excess (*eigen risico*) in the insurances that Contractor is to take out may not be higher than € 10,000 per event.
- 4 Contractor will, at Dura Vermeer's first request, allow inspection of the policy(-ies) to this effect.
- 5 If Contractor is co-insured under a policy of Dura Vermeer or the Principal, Contractor is obliged, in the event of damage caused by Contractor, to compensate Dura Vermeer for the excess relating to the damage payment or any damage not covered by the policy.

**Article 14: Invoicing and payment**

- 1 Payment takes place in accordance with the Contract and in proportion to the progress of the work activities or the delivery and approval by Dura Vermeer and only if Contractor has fulfilled his obligations towards Dura Vermeer and the requirements imposed by Dura Vermeer in the matter of invoicing and compliance with Contractor's obligations pursuant to the Social Insurance (Funding) Act and the Wages and Salaries Tax Act.
- 2 Before invoices will be accepted for processing and before the first instalment statement is supplied, the signed Contract must be in the possession of Dura Vermeer, including, insofar as applicable, the certificates, the signed warranty declaration and the bank guarantee.
- 3 Payment must take place within 60 days after receipt and approval of the invoice, unless a different payment term has been agreed in the Contract.
- 4 Dura Vermeer will only pay:
  - a) after Dura Vermeer has received the Contract, signed by Contractor and Dura Vermeer;
  - b) when the Performance or the part thereof to which an (instalment) payment relates has been delivered / handed over by Contractor to the satisfaction of Dura Vermeer;
  - c) after Dura Vermeer has received an invoice and the receipt confirmation slips, timesheets and/or billing lists, signed by Dura Vermeer; and
  - d) after Contractor, if so requested, has demonstrated that he has paid what is due to the Personnel involved in the Performance, and that he has declared and paid the wage tax and national insurance contributions and turnover tax, payable in respect of the deployment of these Personnel, to the designated authorities.
- 5 Dura Vermeer has at all times the right to pay to Contractor the wage tax and national insurance contributions and turnover tax payable by Contractor in connection with the Contract and/or the Performance, for which he is jointly and severally liable pursuant to Article 34 or 35 of the Collection of State Taxes Act 1990, by deposit into his blocked account within the meaning of the aforesaid articles of law.
- 6 By making a deposit into the blocked account pursuant to paragraph 5, Dura Vermeer fulfils its payment obligations towards Contractor.
- 7 Contractor is obliged to submit to Dura Vermeer his invoice for the amount that may still be payable to him no later than three months after the delivery / handover of the Performance to Dura Vermeer, subject to lapse of any possible right to claim against Dura Vermeer that may still remain.
- 8 If Dura Vermeer wrongfully does not pay in due time what is payable pursuant to the Contract, Contractor has the right to the statutory interest under Article 6:119 of the Netherlands Civil Code up to the day that payment is made by Dura Vermeer.

**Article 15: Changes / upward and downward contract variations**

- 1 Contractor will only be entitled to appeal for compensation of the financial consequences of a change and/or for deferment of the delivery / handover date and/or agreed milestones relating hereto, if and insofar as the change, including the financial consequences and the deferment relating thereto, has been agreed in writing.
- 2 Contractor may only refuse to execute a change at Dura Vermeer's request if the execution of the change:
  - a) has the consequence of a disruption in carrying out the Performance that, according to the criteria of reasonableness and fairness, is unacceptable; or
  - b) would oblige Contractor to execute work activities that exceed his technical knowledge and/or capacity; or
  - c) endangers the safety of the project or persons.
- 3 If Contractor makes a proposal for change, he must append to this a proposal that contains at least the following:
  - a) a description of the change and the way in which he wishes to effectuate it;
  - b) insight into the extent to which the change will lead to change of the delivery / handover date and any agreed milestones;
  - c) insight into the financial consequences.
- 4 Dura Vermeer can attach conditions to its consent to a change proposed by Contractor.

**Article 16: Failure to comply and termination**

- 1 Dura Vermeer has the right to terminate the Contract, in full or in part, if there is a failure of Contractor to comply with his obligations pursuant to the Contract, and Contractor has not rectified the failure, after notice of default by Dura Vermeer, within the period stated therefor by Dura Vermeer. It is not required that the failure is also attributable. Without prejudice to its other rights, including the right to claim compensation for damage, Dura Vermeer is entitled to cause the Performance, in full or in part (for the not yet executed part thereof), to be executed by a third party, at Contractor's expense, using the construction materials and equipment available at the site or transported to and/or used in the work.
- 2 Dura Vermeer has the right to terminate the Contract, in full or in part, without giving notice of default if:
  - a) there has been (an application for) (i) bankruptcy, (ii) suspension of payment, (iii) (partial) winding up or (iv) guardianship of Contractor or of the (legal) person that acted as guarantor for Contractor's obligations or supplied security; and/or
  - b) Contractor fully or partially transfers (parts of) his business or the control thereover, fully or partially ceases his business or fully or partially ceases the business operations; and/or
  - c) a prejudgment or executorial attachment is made against Contractor; and/or
  - d) Dura Vermeer has good grounds to fear that Contractor will not (be able to) fulfil his obligations arising from the Contract.
- 3 All claims against Contractor that Dura Vermeer may have or acquire due to the cases referred to in Article 16.2 will be immediately and fully due and payable.
- 4 In the event of a termination of the Contract pursuant to this article, Dura Vermeer has the right to use (or cause to be used) the equipment and materials that are present at the construction site for completion of the Performance.
- 5 Contractor is obliged, at Dura Vermeer's first request, to supply (further) securities as additional security for (the remaining) compliance with Contractor's obligations towards Dura Vermeer.

### **Article 17: Safety**

- 1 Dura Vermeer and Contractor regard health and safety as a priority and consider it important to continuously improve and maintain their achievements in the area of safety and health for all personnel and for all those who are affected by their activities.
- 2 Contractor must fulfil the legal obligations existing with regard to working conditions and work safety in relation to carrying out the Performance, and guarantees that the safety co-ordination with/by Subcontractors is demonstrably ensured.
- 3 Contractor will arrange for safety measures to be taken in connection with the Performance that is to be carried out, and guarantees that Subcontractors will also take the required safety measures.
- 4 Contractor will ensure that his personnel and the personnel of his Subcontractors comply with the Safe Conduct Rules and Personal Protective Equipment policy of Dura Vermeer that are applicable at the time of the execution of the work activities, as stated at <https://www.duravermeer.nl/PBM.pdf>. If these personnel do not comply with the Safe Conduct Rules or have a negative influence on work safety in general, Dura Vermeer has the right to apply the sanctions policy applicable at Dura Vermeer and to refuse access to the construction site to the personnel concerned.
- 5 Contractor will ensure that only appropriately authorised and trained persons are deployed to execute the Performance.
- 6 Contractor is responsible for ensuring that there is at least one personnel member present at the work site who can communicate with Dura Vermeer in Dutch or English on Contractor's behalf, and also with Contractor's personnel.
- 7 Contractor guarantees that all of his personnel members and the personnel members of Subcontractors have a valid GPI (General Site Safety Instruction) certificate and VCA (Safety, Health & Environment Checklist for Contractors) certificate.

### **Article 18: Code of Conduct**

- 1 Contractor is obliged to comply with the Dura Vermeer Code of Conduct for Subcontractors and Suppliers, as published at <https://www.duravermeer.nl/Gedragcode.pdf>.

### **Article 19: Confidentiality**

- 1 Contractor is obliged to maintain confidentiality of all data, information and knowledge acquired both orally and in writing from Dura Vermeer, which Contractor knows or should have known to be confidential.
- 2 Contractor guarantees that his personnel will comply with the same confidentiality obligation.
- 3 Contractor is not permitted, without Dura Vermeer's prior written permission, to communicate publicly about his involvement with a project of Dura Vermeer, for example during gatherings (such as congresses and symposia) or by means of brochures or publication in newspapers, (technical) magazines, professional journals, journals for a broad public, social media or in any other way. A condition attached to any permission given by Dura Vermeer will in any case be that Dura Vermeer's involvement is correctly stated, this to be judged by Dura Vermeer.

### **Article 20: Other provisions**

- 1 Headings above the articles are intended solely to make these GPC more easily readable and are not a means of interpretation.
- 2 Provisions of the Contract and these GPC that, by their nature, have the purport of remaining in force also after the end of the Contract, will continue to apply after the end of the Contract.

## **SECTION 2. SUPPLIES**

### **Article 21: Delivery of goods**

- 1 Unless otherwise agreed in writing, the delivery takes place carriage paid to site. The transport of the goods therefore takes place at Contractor's expense and risk.
- 2 Breakage and/or damage that occur during loading, transport and/or unloading and stacking by Contractor are at Contractor's expense, unless it is demonstrated that the damage occurred due to fault of (employees of) Dura Vermeer.
- 3 Unloading and stacking outside of Dura Vermeer's normal working hours can only take place with its prior written approval, unless otherwise stipulated in the Contract.
- 4 The goods must have been packaged properly and in an environmentally friendly manner. Contractor is liable for damage to persons or property caused by insufficient packaging and/or damage or destruction of this packaging.
- 5 The deliveries must take place at the time stipulated in the Contract or according to the schedule established by Parties. If the delivery period is exceeded, Contractor is in default, without further notice of default, and obliged to compensate, at the first request, all damage suffered by Dura Vermeer as a result thereof.
- 6 If, for any reason whatsoever, Dura Vermeer is not able to take receipt of the goods at the agreed time via the established schedule, Contractor will keep and protect the goods and take all reasonable measures to prevent deterioration in quality, until they are delivered.
- 7 If Contractor will not be able to complete the Performance at the time stated in the Contract or in accordance with the delivery schedule established by Dura Vermeer, he is obliged to inform Dura Vermeer of this immediately.
- 8 Contractor is liable towards Dura Vermeer for any penalties or reductions of the contract sum that are imposed on Dura Vermeer by the Principal and/or the site management due to late handover of (parts of) the Work in consequence of delay in the delivery of goods that is attributable to Contractor. Dura Vermeer has the right to recover these penalties or reductions from Contractor, if applicable by withholding from the payments that are still payable to Contractor by Dura Vermeer.
- 9 Without prejudice to Dura Vermeer's right to demand, at its choice and judgement, compliance with the Contract, if applicable with compensation for damage, Dura Vermeer has the right, if the delivery (-ies) does (do) not take place at the agreed time via the agreed time schedule, to set aside or cancel the Contract in accordance with Article 16 (Termination) of these general conditions, without being obliged to pay compensation for damage and costs.
- 10 Contractor will ensure that the delivered goods are accompanied by all required documentation, intended to ensure that the delivered goods can be used properly, and by any applicable inspection, test and check reports and warranty certificates.
- 11 Partial deliveries are only permitted with Dura Vermeer's prior written permission.
- 12 Contractor is obliged to structure his organisation, and keep it structured, in such a way that the origin of each part or each component of the delivery can be traced in terms of, among other things, production and origin history.
- 13 Goods rejected in accordance with Article 6.4 will be marked as such and – at the choice of Dura Vermeer – separately stored, processed or destroyed.

**Article 22: Transfer of ownership**

- 1 The ownership of the goods that are to be supplied or manufactured is deemed to already have been transferred to Dura Vermeer as soon as Contractor has started the processing of these goods, has acquired them from third parties, or has manufactured them. In all other cases, the ownership of the delivered goods transfers to Dura Vermeer at the moment of approval after delivery, as soon as the delivered goods have been taken in receipt at the agreed place of delivery by Dura Vermeer. The delivered goods are at Contractor's risk until the moment that they have been taken in receipt by Dura Vermeer.
- 2 Goods made available by Dura Vermeer are and remain under all circumstances the property of Dura Vermeer and will be marked and individualised as such by Contractor in a way that can be identified by third parties. The said goods are deemed to be in good condition and in conformity with the required specifications, unless Contractor has submitted a written complaint within four working days after receipt. At Dura Vermeer's first request, Contractor will designate the said goods and surrender and hand over those goods to Dura Vermeer.
- 3 In the event of rejection by Dura Vermeer of delivered goods, the delivered goods remain the property of Contractor and the risk is also deemed to have remained with Contractor and therefore never to have been transferred to Dura Vermeer. In that case, Dura Vermeer is not obliged to comply with its obligations arising from the Contract. In that case, Contractor will credit Dura Vermeer for amounts already charged and will immediately repay to Dura Vermeer amounts that have already been paid by Dura Vermeer.

**Article 23: Acceptance and refusal**

- 1 The delivery is only deemed to have been accepted by Dura Vermeer when the delivery has been approved.
- 2 Approval and acceptance apply solely for the quantity and the external condition of the delivered goods. If goods are delivered packaged and bundled, approval and acceptance relate only to the quantity and the external condition of packages.
- 3 In the event of rejection, Dura Vermeer will immediately notify this to Contractor. Contractor will take away rejected goods at the first request at his expense. In the event of failure to remove the rejected goods, Dura Vermeer is entitled to return them at Contractor's expense and risk.
- 4 Without prejudice to Dura Vermeer's right, at its choice, to (partially) set aside or cancel the Contract and, if applicable, to claim compensation for damage, Dura Vermeer has the right, after rejection, to demand delivery of new goods, within a period to be established by Dura Vermeer, that fulfil the inspection requirements, without being obliged to make any extra payment.

**SECTION 3. (SUB)CONTRACTING AND HIRING-IN**

**Article 24: Subcontracting and hiring-in liability**

- 1 Before commencing the execution of the Contract – and in the event of change of the information during the execution of the Contract, prior to the change concerned – Contractor will, insofar as required by law and permitted, supply to Dura Vermeer the information (as referred to in the legislation, guidelines and implementing regulations established in the context of liability of hiring-in parties and subcontractors for wage tax and national insurance contributions) of all Contractor's personnel, on the basis of a model to be supplied by Dura Vermeer.

- 2 At Dura Vermeer's request and at least once per quarter on its own initiative, Contractor will supply an original declaration regarding his payment behaviour to the Tax and Customs Administration, as referred to in the legislation and guidelines established in the context of liability of hiring-in parties and subcontractors for wage tax and national insurance contributions.
- 3 Contractor will maintain a wage administration in accordance with the applicable tax laws.
- 4 If Contractor – with due observance of the provisions of Article 8.1 – contracts out the execution of the Contract, in full or in part, to a third party, and also if he makes use of hired-in personnel for the execution of the Contract, Contractor guarantees that the Subcontractor and the hired-in personnel will strictly comply with the requirements applicable for Contractor, as referred to in these GPC, the Contract and the law. Insofar as failure to comply with these requirements would have the consequence that Dura Vermeer is held liable by third parties, Contractor hereby indemnifies Dura Vermeer against all consequences thereof.
- 5 Dura Vermeer has at all times the right to pay to Contractor the social insurance contributions, wage tax and national insurance contributions payable in the matter of the Performance, for which he is jointly and severally liable pursuant to Article 35 of the Collection of State Taxes Act 1990, by deposit into his blocked account within the meaning of the aforesaid Act (the G account). If Article 34 of the Collection of State Taxes Act is applicable and if turnover tax is charged, Dura Vermeer has the right to pay the payable turnover tax by deposit into the G account. Contractor will ensure that a G account is available.
- 6 If Dura Vermeer reasonably arrives at the opinion that, in the matter of the Performance, Contractor will have to pay a higher amount of social insurance contributions, wage tax and national insurance contributions than the percentage that is laid down in the Contract, Dura Vermeer can unilaterally change that percentage.
- 7 If Dura Vermeer is held liable and therefore is obliged to pay unpaid (advance) premiums, social insurance contributions, taxes and/or penalties for personnel engaged by or on behalf of Contractor, Contractor will reimburse to Dura Vermeer, at Dura Vermeer's first request, the whole amount plus statutory interest.
- 8 If Contractor and/or a Subcontractor can no longer fulfil their payment obligations pursuant to the law, Contractor must inform Dura Vermeer of this within five working days from the day on which the inability to pay arose; if this is not done, Contractor is ipso jure in default towards Dura Vermeer. Dura Vermeer is then entitled, without any notice of default or judicial intervention being required, to set aside the Contract in full or in part, without prejudice to its right to compensation for damage and right of recovery.

#### **Article 25: Co-operation**

- 1 Contractor will, and is obliged to, only employ personnel in the context of the execution of the Performance who, before and during the work activities, fully co-operate with the recording and checking of information as referred to in Article 24. If a personnel member of Contractor or of a Subcontractor does not co-operate, the personnel member concerned will not be given access to the place where the work activities are carried out or will be removed therefrom.
- 2 Contractor is obliged to only employ personnel in the context of the execution of the Performance who, before or during the work activities, at the first request can show their proof of identity. If a personnel member is unable to show his/her proof of identity, the personnel member concerned will not have access to the place where the work activities are carried out or will be removed therefrom.
- 3 Contractor and the personnel of Contractor and/or of Subcontractors are obliged to fully co-operate with every check conducted by Dura Vermeer, the Principal, third parties engaged by them and/or supervisory authorities.

**Article 26: Inspection and approval**

- 1 Inspection of the Performance will take place at the request of Contractor to Dura Vermeer, whereby Contractor states on what date the Performance will be completed.
- 2 The inspection will take place as soon as possible after the date referred to in paragraph 1 of this article. The date and time of the inspection will be notified to Contractor as soon as possible.
- 3 Dura Vermeer can require that Contractor or his authorised representative is present at the inspection.
- 4 After the Performance has been inspected, Contractor will be informed as soon as possible whether the Performance has been approved. If Dura Vermeer rejects the Performance, Dura Vermeer will state the reasons for the rejection.
- 5 The re-inspection after withholding of approval will take place in accordance with the above-mentioned provisions.
- 6 At Dura Vermeer's first request, Contractor will rectify or replace the rejected Performance and/or parts thereof at his own expense.

**Article 27: Maintenance period**

The maintenance period commences on the day after handover of the Performance by Contractor to Dura Vermeer and ends at the moment that the maintenance period that was agreed for the Work between the Principal and Dura Vermeer ends, unless otherwise stipulated in the Contract. If the maintenance period has not been agreed in the Contract or the Main Contract, the maintenance period will end twelve months after handover of the Work by Dura Vermeer to the Principal.

**Article 28: Materials, tools and equipment**

If materials, tools and/or equipment are used for the work activities to be carried out by Contractor in the context of the Performance, which are made available by Dura Vermeer, this use is at Contractor's risk, and materials, tools and equipment will, after execution of the Contract and otherwise at Dura Vermeer's first request, be immediately returned to Dura Vermeer in the same condition in which they were supplied. Contractor is responsible for ensuring that materials, tools and/or equipment are handled correctly and carefully, and must ensure that they are correctly received, stored and transported.

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