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Article 1      *Area of Application and Definitions*

- 1.1 The present general terms and conditions of contract apply to agreements with regard to the execution or contracting out of work by the Customer, in every possible manner, or to the supply of goods, possibly combined with work planning, product design or the performance of other services, even if the raw materials or the materials are partially or entirely supplied by the Contractor.
- 1.2 The ‘Customer’: the property developer/principal of NV Geldof Metaalconstructie, NV G&G International, NV BBE or their joint ventures and associated companies.
- The ‘Contractor’: NV Geldof Metaalconstructie, NV G&G International, NV BBE or their joint ventures and associated companies.
- The ‘Contract’: the work or deliveries described in the special terms and conditions as well as all activities to be carried out by the Contractor.
- The ‘Contractual Documents’: the offer and all appendixes mentioned in the offer.

Article 2      *Agreement Conclusion*

- 2.1. Unless provided otherwise in writing, every agreement (including all future agreements) shall be governed by the present general terms and conditions legally constituting an integral part of the agreement and legally excluding the application of the Customer’s general terms and conditions.
- 2.2. The agreement is concluded upon the Customer’s written acceptance of the Contractor’s offer. If the Customer however orders to start the work after the receipt of the offer, he is deemed to agree with the agreement’s full text with which he is familiar, i.e. the offer and all Contractual Documents, including the present general terms and conditions.
- 2.3. The Customer guarantees the accuracy, correctness and completeness of the information, specifications, guidelines and instructions given to the Contractor. He confirms and guarantees that at the place of delivery and/or assembly all conditions have been met to allow the Contractor to carry out the Contract in conformity with all legal requirements in the approved manner.
- 2.4. A deviation from any provision stipulated in the Contractual Documents, including the present general terms and conditions of contract, is only valid if agreed in writing.

Article 3      *Contractual Documents*

- 3.1. The Contractual Documents, including the present general terms and conditions of contract, constitute the agreement's integral text. They replace all previous oral or written proposals and/or documents or general terms and conditions emanating from the Customer, as well as all notifications between the parties before the agreement's conclusion.
- 3.2. Unless provided otherwise in writing, the general terms and conditions of contract fully apply. The special terms and conditions constitute a supplement to the general terms and conditions.
- 3.3. In case of contradiction or incompatibility, the more detailed provisions shall always prevail over the general provisions. The special terms and conditions shall thus prevail over the general terms and conditions and the technical specifications shall prevail over the special terms and conditions.
- 3.4. The execution plans accepted by the Customer shall always prevail over the technical specifications.
- 3.5. In case of documents of the same type, recent documents shall always prevail over older documents.
- 3.6. The Customer undertakes to immediately notify every possible contradiction or incompatibility.

Article 4      *Security*

- 4.1. The size of the security between the parties is laid down in the special terms and conditions.
- 4.2. The security shall always consist of a conditional but irrevocable guarantee granted by a first class financial institution meeting the applicable legal requirements. An example of such a bank guarantee is enclosed with the agreement. The security shall only be given to the beneficiary if he can present a definitive judgement of the competent court or a written agreement between the parties.
- 4.3. The security must be furnished within thirty calendar days of the day the offer was accepted, by handing in the original commitment certificate drawn up by the financial institution having granted the guarantee.
- 4.4. The security must always be proportionate or adapted to the Contract value or to the modified Contract value.

- 4.5. If objective elements (such as protested bills of exchange, cancellation of credit, provisional or executory seizures, outstanding debts with suppliers, recurrent delivery problems, etc.) indicate that the Customer is facing liquidity problems or that he has difficulty in fulfilling his contractual obligations, the Contractor is entitled to suspend the fulfilment of his obligations and to make their fulfilment subject to the receipt of a collateral security, if necessary guaranteeing the payment of the full contract value, without prejudice to his right to take one or several measures at his own authority according to article 13.

Article 5      *Confidentiality*

- 5.1 Confidential Information is understood to mean all information regardless of its form that is not publicly known, including all data, drawings, photos, documentation, software, methods, manuals, formulas and all data regarding the research, development and execution of the Contract that the Contractor presently owns or will own in the future.
- 5.2 All the Contractor's Confidential Information remains his exclusive property.
- 5.3 This Confidential Information may not be copied in any way or disclosed to third parties without the Contractor's prior written consent.
- The Customer undertakes to observe this article and to assure that it is observed by his subcontractors, contracting partners, personnel and everyone to whom he appeals.
- 5.4 If the offer does not result in an order, all Confidential Information, all the original data media and all copies must be returned to the Contractor at once.
- 5.5 A breach of the present confidentiality clause shall automatically result in the Customer's obligation to pay a fixed compensation amounting to at least 5% of the final contract value, without prejudice to the Contractor's right to take one or several measures at his own authority according to article 13. If claiming higher damages, the Contractor must supply evidence of these damages.
- 5.6 At the Contractor's first request the Customer shall sign a separate confidentiality agreement committing him to impose all obligations contained in this agreement on his subcontractors, contracting partners, personnel and on everyone to whom the Customer might appeal.

Article 6      *Intellectual Property Rights*

- 6.1 All intellectual property rights in relation to the Contractor's Confidential Information and to the execution of the Contract including copyrights, trade secrets, patent rights, trademark rights, rights relating to designs or any other intellectual property right shall remain the Contractor's exclusive property.

The Customer shall only acquire a personal, non-transferable and non-exclusive right of use destined for and limited to the execution of the Contract and the use of the delivered goods.

The Contractor reserves the right to use the aforesaid Confidential Information and things, the methods he has developed, the procedures and techniques he uses as well as all ideas he might have to carry out contracts for third parties.

A breach of the present clause shall automatically result in the Customer's obligation to pay a fixed compensation amounting to at least 5% of the final contract value, without prejudice to the Contractor's right to take one or several measures at his own authority according to article 13. If claiming higher damages, the Contractor must supply evidence of these damages.

- 6.2 The Customer guarantees that no third-party intellectual property rights are violated during the execution of the Contract.

He shall protect the Contractor against third-party actions and against all losses that could result from these actions because of alleged infringements of a copyright, a trade secret, the patent law, the trade mark law, the law relating to designs or any other intellectual property right.

The Customer undertakes to pay all costs resulting from these infringements including legal costs and fees for legal assistance.

- 6.3 The Contractor shall acquire a right of use with regard to all intellectual property rights in relation to the Customer's Confidential Information including copyrights, trade secrets, patent rights, trademark rights, rights relating to designs or any other intellectual property right.

Article 7      *Price*

7.1 If he has suffered a loss of a substantial nature, the Contractor can request a revision or the rescission of the agreement invoking unavoidable circumstances that he could not reasonably have foreseen when submitting the offer or at the allocation of Contract and of which the consequences could not be remedied although he did everything possible to do so. These circumstances also include: unfavourable weather conditions and their consequences, economical circumstances such as ordinary and extraordinary cost increases of every possible nature.

The loss is deemed to be of a substantial nature if it amounts to at least 2.5% of the Contract value.

The revision modalities are included in the special terms and conditions.

7.2 The price shall be automatically increased with all applicable government taxes and levies, as they are due on the day of delivery.

Article 8      *Invoicing - Payments*

8.1 All invoices must be paid at the Contractor's registered office, in cash and without reduction.

8.2 Without prejudice to the application of article 13, any delay in payment shall automatically and without formal notice of default result in the Customer's obligation to pay a conventional interest of 1% per month or part of a month, as from the due date. The interest due by the Customer shall be capitalized per annum, subject to notice of default by registered mail. If payment by instalments has been agreed in the special terms and conditions, the remainder shall automatically become due increased with interest and a penalty clause, if one of the instalments is not paid or not paid in time.

8.3 If the outstanding amount is not paid on its due date, and after notice of default by registered mail, any amount due shall be automatically increased by 12% by way of conventional penalty clause, as a fixed compensation for extra-legal costs. This compensation is subject to the same legal and conventional interest of 1% per month or part of a month as from the notice of default by registered mail.

8.4 The unconditional payment of part of the invoiced amount shall be deemed to be acceptance of the invoice.

8.5 Partial payments shall always be accepted with all reservations and without adverse recognition, and shall be attributed by preference to any legal costs incurred, secondly to outstanding interest, thirdly to the penalty clause and finally to the principal amount.

Article 9      *Management and Supervision of the Contract Execution*

9.1 Every person managing or supervising the Contract execution, by order of the Contractor or the Customer, shall be mentioned in the special terms and conditions. Modifications shall only be accepted following written notification.

9.2 Within the framework of the Contract execution, orders can only be given and agreements can only be concluded by the parties' legal representatives or by the people managing and supervising the Contract execution designated in the special terms and conditions.

The parties are not bound by orders or agreements that are not given and confirmed in writing by one of these people.

Article 10      *Unilateral Contract Termination*

10.1 In case of unilateral Contract termination the Customer is automatically obliged to pay compensation equal to all the Contractor's expenses and costs as well as compensation for lost profit. The compensation for lost profit is a fixed compensation amounting to 15% of the original contract value, unless the Contractor decides to prove the loss of profit really suffered.

The expenses and costs also include: an increase in costs involved in maintaining a registered office and in administrative costs, an increase in the general building yard costs, yield loss or material immobilisation, yield loss on the planning, costs resulting from the suspension and restart of the work, extra maintenance costs and/or conservation costs, legitimate demands from third parties (contractors, suppliers and principals), storage costs, increase in wages and material prices, interests on credits from third parties.

The Customer must protect the Contractor against all claims from subcontractors, suppliers or third parties to whom the Contractor might appeal.

10.2 If the Customer refuses to accept delivery or makes it impossible to carry out the delivery, the agreement shall automatically be deemed rescinded to his disadvantage.

If partial delivery has already taken place when the Customer refuses to accept further deliveries or makes it impossible to carry out any further deliveries, the Contractor can opt, on condition that he notifies the Customer by registered mail, to invoice the Customer for the part of the delivery already carried out and to automatically rescind the agreement to the Customer's disadvantage as to the part of the delivery that has not yet been carried out.

The Contractor shall be entitled to compensation as defined in article 10.1.

Article 11     *Changes to the Contract*

- 11.1. Orders to change the Contract must be given in advance in writing and must be signed by the people specified in article 9. They indicate the changes to be made to the original description of the Contract as well as to the other Contractual Documents.
- 11.2. Changes to the Contract do not imply an automatic postponement of the stipulated completion deadlines.
- 11.3. The price for unforeseen work to be carried out by the Contractor and for all other changes to the Contract shall be based on the offer's unit prices or failing these prices on unit prices to be agreed on.

The Contractor shall be entitled to compensation for the non-executed part of the Contract, as defined in article 10.1.

Article 12     *Deadlines*

- 12.1. The planning of the Contract execution shall be described in detail in the special terms and conditions or in the appendixes.
- 12.2. If, in the event of delay, the delay is not really unreasonable and solely due to the Contractor, it shall not result in the rescission of the agreement.
- The Contractor's liability vis-à-vis the Customer shall always be limited to the direct and foreseeable damage and shall in no event exceed 5% of the contract value.
- 12.3. Changes to the planning must be notified in advance in writing and must be signed by the people specified in article 9.
- 12.4. Any delay in payment of the advances shall result in an equal postponement of the completion deadline.
- 12.5. If the Customer changes the planning for whatever reason, the Contractor shall be entitled to compensation for all resulting direct and indirect costs and damages as defined in article 10.1.

The Contractor is not obliged to start or to continue the Contract execution failing an agreement on the invoiced costs and on the compensation.

Article 13     *Remedies – Offsetting and Unit of Account*

13.1 If the Customer fails to fulfil any obligation under the agreement and if he does not react within eight calendar days to a letter sent by registered mail, the Contractor can decide to take one or several measures at his own authority at the defaulting Customer's expense and risk, provided he informs him of this decision by registered mail:

- suspend the Contract execution,
- unilaterally rescind the Contract,
- cancel other current orders passed by the Customer or by his joint ventures or associated companies,
- use the security to pay the principal amount, the compensation and the interests still owed by the Customer,
- demand a collateral security,
- demand immediate payment of the already executed part of the Contract, regardless of the agreed payment terms,
- keep all advances and use them to settle the principal amount, the compensation and the interests still outstanding,
- exercise a lien over all the Customer's goods in the Contractor's possession,
- demand the return of all already delivered goods,
- store or keep the already executed work or the already acquired raw materials at the Customer's expense until full payment of the principal amount, the compensation and the interests still outstanding.

13.2 The Customer must invoke his defence against the ascertained shortcomings within eight calendar days of the post date on the aforesaid letter. If he does not react within this period of time, he shall be deemed to have acknowledged the ascertained facts.

13.3 The unilateral termination of the Contract shall automatically result in the Customer's obligation to pay compensation as agreed in article 10.1.

The damages, costs or expenses in accordance with or resulting from any measures taken at the Contractor's authority shall be deducted from the security.

- 13.4 The accounts between the Contractor, the Customer and their respective joint ventures and associated companies shall be kept according to the principles applicable to the current account. Each party's transactions, debits and credits with regard to the other party, even if they result from separate agreements, shall thus be recorded in one indivisible account to which the rules of the current account apply, resulting in automatic offsetting of debits and credits.

Article 14     *Bankruptcy*

- 14.1 If the Customer is declared bankrupt, requests a composition with his creditors or proceeds to liquidation, the Contractor is automatically and without a formal notice of default entitled to take measures at his own authority and to claim compensation according to article 10.1.

Article 15     *Delivery*

- 15.1 The goods and materials ordered are always delivered ex factory/warehouse. The risk of transport shall be borne by the Customer.
- 15.2 The Customer must ensure that all necessary precautions have been taken and that all conditions have been met at the place of delivery to guarantee delivery under perfect circumstances, without the Contractor having to check this prior to delivery. All damages and costs resulting from the failure to do so shall be borne exclusively by the Customer.

Article 16    *Acceptance*

- 16.1 After full delivery the Contractor shall make a written request to the Customer to proceed to the provisional acceptance.
- 16.2 Within fifteen days of the receipt of the Contractor's request a report of provisional acceptance or refusal of acceptance shall be drawn up. Failure to do so through the Customer's fault shall automatically result in the Customer's obligation to pay compensation for each calendar day of delay. This compensation shall be calculated on the basis of an interest rate of 1% per month on the amounts whose payment depends on the provisional acceptance.
- The provisional acceptance shall take place in the presence of the Contractor or of his representative specified in article 9 provided they are invited to attend in time.
- Remarks, if any, must be included in the provisional acceptance report. The same applies to the deadline agreed between the parties for the execution of this work.
- In the event of provisional acceptance, even with remarks, the Contract shall be deemed completed at the date the provisional acceptance is requested.
- The provisional acceptance date also signifies the start of the Contractor's ten-year liability period.
- 16.3 Unless provided otherwise in the special terms and conditions, the period between the provisional and the final acceptance shall amount to one year.
- 16.4 After the one-year provisional acceptance period a report of final acceptance or refusal of acceptance shall be drawn up.
- 16.5 The provisional and final acceptance can also be deduced from the entering into possession by the Customer, the placing into service, the lack of complaints within a certain period of time, the acceptance of the invoice, the partial or full payment or the passing of the agreed period of time between the provisional and final acceptance.

Article 17     *Reservation of Title – Responsibility and Risk*

- 17.1 The responsibility and risk of the goods shall rest with the Customer as from the conclusion of the agreement, and insofar as it concerns grade products, from the moment they have been identified.
- 17.2 The goods shall remain the Contractor's property until the full payment of the price and the incidental expenses, owing for the execution of the Contract and the execution of all other previous or future agreements between the Contractor, the Customer and their respective joint ventures and associated companies.

Till that moment the Customer consequently undertakes:

- not to alienate or to pledge these goods, or to let them serve as security without the Contractor's prior written consent,
- to administer the goods with due diligence and to ensure that the goods are insured against all risks,
- to give the Contractor access to all places where the goods are stored,
- to hand the goods over to the Contractor or to put them at his disposal at his first request.

If the Customer alienates the goods, he shall furnish the Contractor a security on his claim on the subsequent buyer.

Article 18     *Hidden Defects*

- 18.1 The Customer loses the right to invoke the Contractor's obligation to protect him against hidden defects if he does not inform the Contractor of the hidden defect within a reasonable period of time after the moment he has or should have discovered it. This notification must also include the exact nature of the assessments.

The onus of proof rests with the Customer.

The Customer must prove that at least the seeds of the defect were already present at the time of delivery.

- 18.2 All claims for hidden defects expire in the event of changes and/or repairs by the Customer or by a third party or in the event of resale of the delivered goods. A claim to guarantee also expires if the delivered goods are not assembled, processed or used according to the Contractor's instructions accompanying the delivery, of which the Customer declares having received a copy. The same applies if the goods have not been submitted to an annual check-up or have not been maintained according to the Contractor's maintenance instructions accompanying the delivery, of which the Customer declares having received a copy.
- 18.3 Claims for alleged hidden defects cannot be invoked by the Customer to justify the postponement or suspension of his payment obligations.

- 18.4 Principally, the Customer can ask the Contractor to repair or replace the goods free of charge, unless this is impossible or disproportionate.

A remedy shall be deemed to be disproportionate if it imposes costs on the Contractor that in comparison with the alternative remedy are unreasonable, taking into account:

- the value the goods would have if there were no defect,
- the significance of the defect, and
- whether the alternative remedy could be completed without significant inconvenience to the Customer.

All repairs or replacements shall be completed within a reasonable period of time and without any significant inconvenience to the Customer, taking account of the nature of the goods and the purpose for which the Customer requires the goods.

The term "free of charge" refers to the direct costs incurred to bring the goods into conformity.

Repair or replacement of the goods shall exclude all other claims. The Customer cannot claim further compensation for the direct or indirect damages he may have suffered.

- 18.5 The Customer may subsidiarily request an appropriate price reduction or have the agreement rescinded:

- if he is entitled to neither repair nor replacement, or
- if the Contractor has not completed the remedy within a reasonable period of time.

The Customer is not entitled to have the agreement rescinded if the defect is not of a substantial nature.

- 18.6 The Contractor's liability vis-à-vis the Customer, for whatever reason, is always strictly limited to the direct and foreseeable damage to the delivery itself, excluding all damages due to use or exploitation, and shall not exceed the amounts invoiced by the Contractor for the delivery or for the part of the delivery concerned by the complaint, excluding amongst others the costs of removal or replacement.

- 18.7 The Customer shall lose his right to invoke a hidden defect if he does not inform the Contractor of the hidden defect within two years of the actual delivery of the goods to the Customer, unless another guarantee period was provided in the agreement.

The Customer's claim shall expire one year after this notification of the defect.

- 18.8 The Customer shall protect the Contractor against all third-party actions with regard to the delivered goods that would exceed the Contractor's maximum obligations under art. 16 up to 18 inclusive, including the time limits.

Article 19      *Force Majeure*

In case of "foreign cause" (art. 1147 of the Belgian Civil Code), even when this does not lead to a permanent and/or complete impossibility to carry out the agreement, the parties have the right, by law, to postpone or to annul their commitments unilaterally, after giving prior notice thereof to the other party. They cannot be obliged, for whatever reason, to pay compensation.

Are conventionally deemed "foreign causes": war, a strike or lock-out, extreme shortage of raw materials or goods, weather conditions, fire, natural and/or other disasters, government decisions and decisions taken by the Customer influencing the execution of the agreements, etc.; these "foreign causes" may occur at the premises of the Contractor, the Customer or other contracting partners.

Article 20      *Competence and Applicable Law*

Any dispute shall fall under the exclusive territorial jurisdiction of the justice of the peace court in the district of Harelbeke, of the courts of the judicial district of Kortrijk or of a court competent pursuant to article 624 of the Belgian Judicial Code, as desired by the Contractor.

This competence clause also applies in case of emergency (e.g. summary proceedings).

The use of bills of exchange does not imply any debt novation and therefore does not modify the competence clause.

The present terms and conditions are governed by Belgian law. All other matters that have not been expressly specified shall be governed by common law. The applicability of the Vienna Convention on the International Sale of Goods and of any other treaty is hereby explicitly excluded.