

CHAPTER 1: GENERAL

Clause 1 – General

These General Terms and Conditions consist of three chapters:

I. Chapter 1 General (Clauses 1 up to and including 26) of these General Terms and Conditions applies to all Agreements;

II. Chapter 2 Purchasing (Clauses 27 and 28) of these general terms and conditions applies if and to the extent that the Agreement provides for, or contains provisions regarding, the supply of goods;

III. Chapter 3 Contracting and Subcontracting (Clauses 29, 30, 31 and 32) of these General Terms and Conditions applies if and to the extent that the agreement provides for, or contains provisions regarding, the contracting of work.

If a Contractor supplies both goods and performs work/renders services at VolkerRail's instruction, all three chapters apply in parallel.

Clause 2 – Definitions

A. Client: VolkerRail Nederland B.V. (Ch. of Comm. no.: 30142333), also referred to hereinafter as "VolkerRail", and/or its subsidiaries and/or every company affiliated to it in the VolkerWessels Nederland B.V. group within the meaning of Article 2:24b Dutch Civil Code ("DCC") and/or in which it holds a participating interest of greater than 50% and/or every other company over which it exercises predominant control ("VolkerWessels").

B. Offeror: The natural person or legal entity which makes, or has made, an offer to VolkerRail regarding the supply of goods, rendering of services and/or performance of work, whether or not as a subcontractor.

C. Contractor: The natural person or legal entity with which Volker Rail concludes, or has concluded, an Agreement as defined in Clause 2(G) of these General Terms and Conditions.

D. Supply: The goods to be supplied, the services to be rendered and/or the work to be performed, whether or not in the context of subcontracting.

E. Delivery: The delivery of the Supply.

F. Contract: The contract between the Principal and VolkerRail with the description of the work, the accompanying draft or other drawings, the terms and conditions that apply to the work (other than these General Terms and Conditions), as well as any amendments or additions thereto, the summary (or summaries) of additional information and changes and the record(s) of the information proceedings.

G. Agreement: The Agreement between VolkerRail and the Contractor to render the Supply or any other Agreement to which these General Terms and Conditions have been declared applicable.

H. General Terms and Conditions: General Terms and Conditions of Purchase and Subcontracting of VolkerRail Nederland B.V., 2023 version.

I. Principal: VolkerRail's principal according to the Contract.

Clause 3 – Applicability of General Terms and Conditions

3.1 Unless expressly agreed otherwise in writing, all engagements and/or all Agreements concluded with January 2023 version

VolkerRail are subject only to the following:

- the provisions of the engagement or the Agreement;
- the provisions of these General Terms and Conditions;
- the provisions of the Contract in relation to which the Agreement is concluded.

3.2 In the event of any conflict between the aforementioned documents, they will prevail in the descending order stated above.

3.3 The Contractor's provisions and/or general terms and conditions, of delivery or otherwise, will not apply to the Supply unless VolkerRail has expressly accepted these in writing.

Clause 4 – Offer and Order

4.1. A written offer directed to VolkerRail will bind the Offeror during the term stated in VolkerRail's request, which term will be no shorter than ninety (90) days after the date of the offer.

4.2. The offer must conform to VolkerRail's request and will at least state the price, delivery time, or date(s) of supply or delivery regarding the Supply offered to VolkerRail, the guaranteed deadlines relating to the Supply offered to VolkerRail and such information that is necessary for taking a decision to conclude an engagement. If the offer does not satisfy the requirements laid down in the previous sentence, this will nevertheless be considered to have been submitted in accordance with VolkerRail's request unless the Offeror expressly indicates that it has deviated from these requirements.

4.3 Acceptance of the engagement received from VolkerRail will ensue from, among other things, the Offeror's performance of the engagement in question. If the Offeror has not presented any written objections to VolkerRail's engagement within fourteen days after the date of that engagement, the engagement will be considered to have been accepted.

4.4 By accepting the engagement awarded by VolkerRail, the Offeror becomes a Contractor for VolkerRail.

4.5 The Contractor is considered to be aware of all statutory and other applicable regulations, directives, requirements, certificates and standards (including, but not limited to: NEN, ISO, SPC, OVS and ICE) – whether or not these are national in nature – which affect the performance of the Agreement and its compliance with same must be full and unabridged.

4.6 VolkerRail will only be enter into Agreements subject to the condition subsequent or condition precedent that the Principal approves this Agreement or that the supply from VolkerRail to the Principal in connection with which the Agreement was concluded is actually and completely fulfilled.

4.7 If VolkerRail enters into the Agreement, or a particular provision thereof, with multiple Contractors, then all the Contractors who are involved with the Agreement or the relevant provision will be bound and jointly and severally liable to VolkerRail for the entirety of the Agreement or the relevant provision.

4.8 Requests (invitations to submit an offer) from VolkerRail to the Offeror for a quotation or offer will not bind VolkerRail in any way whatsoever.

Clause 5 – Intellectual and Other Property and Risks Associated with Goods, Materials, Equipment, Drawings, Documents, etc.

5.1 The materials, equipment, documents, files, models,

drawings, calculations, work methods, software, computer files and other data carriers made available – whether digitally or otherwise – to the Contractor by VolkerRail or – at VolkerRail’s request in the context of an Agreement – by third parties, will remain the property of VolkerRail.

5.2 Goods, documents and/or work methods that the Contractor has developed, or which the Contractor has arranged to have developed, in cooperation with, or at the behest of, Volker Rail, including – but not limited to – drawings, calculations, models, software and computer files will remain, or will become, the property of VolkerRail. The knowledge the Contractor acquires in the context of this development will be made available exclusively to VolkerRail and the Contractor will not disclose such to third parties, use the knowledge itself and/or on behalf of third parties unless the Contractor has obtained VolkerRail’s advance written consent to do so.

5.3 If, in the context of the Agreement, VolkerRail makes goods available to the Contractor for treatment, assembly, supervision, testing, processing, combining or blending with goods that are not VolkerRail’s property, VolkerRail will remain or become the owner of the goods thus created.

5.4 The Contractor will use VolkerRail property referred to in Clauses 5.1, 5.2 and 5.3 only within the Contractor’s own organisation to the extent this is necessary to performing the Agreement. The Contractor may only provide the relevant property to a third party, or copy, duplicate or otherwise utilise the property, with VolkerRail’s express written consent. Unless agreed otherwise, any financial benefits ensuing from same will accrue to VolkerRail. VolkerRail’s provision of property will in no way constitute an assignment of intellectual or other property rights to the Contractor. The Contractor bears the entirety of the risk associated with using the intellectual or other property.

5.5 The Contractor must store and identify all property provided by VolkerRail, as well as the goods that become VolkerRail’s property pursuant to the Agreement, in such a way that no misunderstanding about the identity of the owner can arise even in the case of the Contractor’s bankruptcy and/or a seizure at the Contractor’s premises.

5.6 If the Contractor has not complained within two days of receipt about the property provided to it by or at the behest of VolkerRail, that property will be considered to have been provided to the Contractor free of defects. The Contractor must retain, use and maintain the property provided to it as a prudent contractor and in accordance with the requirements which, if the Contractor were to fail to comply with them, would make the Contractor liable for the resulting loss or harm incurred by VolkerRail.

5.7 The Contractor will return the property, or the photograph and/or digital copies thereof, to VolkerRail or destroy that property – at VolkerRail’s option – by no later than the date of Delivery or at VolkerRail’s first request within a term VolkerRail sets for that purpose.

5.8 If VolkerRail provides the Contractor with goods for assembly, or pre-assembled goods for testing or commissioning, and/or if VolkerRail instructs the Contractor to supervise the assembly of goods, then the Contractor will bear the risk associated with these goods from the time they are provided until the time VolkerRail accepts the Supply. If the Contractor delivers the Supply on-site and has also been instructed to assemble or supervise the assembly of the Supply, the Contractor will uninterruptedly bear the risk associated with the Supply until VolkerRail

accepts that Supply.

5.9 If, when the Agreement is performed or in the context of that performance, works are created that may entail intellectual property rights, then VolkerRail will be considered to be the creator of these works and to be the holder or original holder of the intellectual property rights associated with these works. By signing this Agreement, the Contractor assigns in advance any future intellectual property rights to VolkerRail. In addition, the Contractor waives in advance any personality rights which may be associated with same. If necessary, the Contractor will in any event lend its full cooperation with the transactions necessary to assign the aforementioned intellectual property rights to VolkerRail and waives in full any personality rights which may be associated with same.

5.10 The Contractor is obliged to properly insure its obligations pursuant to this clause and to update such insurance every year.

5.11 The Contractor guarantees that the use of all or part of the Supply or the tools that the Contractor purchased or manufactured on VolkerRail’s behalf that were necessary to perform the Supply do not infringe on any intellectual property right – such as, but not limited to, copyrights, patent rights, trade name rights and/or trade mark rights – and/or know-how belonging to third parties, or that the use thereof will not constitute a failure to perform in respect of, and/or an otherwise unlawful act against, third parties. The Contractor will indemnify VolkerRail and hold it harmless against all third-party claims in that regard, and will compensate VolkerRail for any loss or harm resulting from such claims, whether or not it has been established at law that an infringement upon third-party rights has actually taken place.

5.12 VolkerRail is free to assert a defence in and outside of court against any third-party claims referred to in this clause, to reach an amicable settlement and to engage expert assistance. The Contractor will provide VolkerRail, at the Contractor’s own expense, with all information and cooperation which the Contractor believes is reasonably necessary to asserting a defence against a third-party claim.

5.13 Upon VolkerRail’s request, the Contractor will handle the defence in any proceedings that may be instituted against VolkerRail in connection with the third-party claims referred to in this clause due to an infringement of the intellectual property rights held by a third party or other third-party claims referred to in this clause.

5.14 If VolkerRail’s use as meant in Clause 5.11 infringes on any intellectual property right or know-how of third parties, or any other third-party right, or if such infringement is imminent, then at VolkerRail’s request, the Contractor will also, at its own expense:

- acquire the usage or other right to the relevant Supply or parts thereof;
- change the relevant Supply or parts thereof in a such a way that the infringement is eliminated;
- replace the relevant Supply or parts thereof with goods of similar value that do not infringe on any third-party rights;
- accept the return of the relevant Supply or parts thereof in exchange for a refund of the price paid for same.

The Contractor will adhere to the order of prevalence indicated in this clause. If the Contractor demonstrates that the first aforementioned option is infeasible, the Contractor will be entitled to utilise the next option down on the list. All of this must be done in consultation with VolkerRail without

any extra costs accruing to VolkerRail and without the possibilities regarding the Supply being more restricted than they would have been originally.

Clause 6 – Company Principles

6.1 VolkerRail adheres to the economic principle comprising the core values of social responsibility, integrity, transparency, sustainability and safety. The Guiding Principles for Commissioning Construction Companies were formulated to that end. With regard to integrity, VolkerRail also adheres the VolkerWessels Code of Conduct, with which all employees are required to comply. Both can be found on the website at <https://www.volkerwessels.com/en/about-us/integrity>.

6.2 The Offeror and/or Contractor must take cognisance of the aforementioned principles and code of conduct and adhere to the contents thereof. The Offeror and/or the Contractor guarantee that these principles and the code of conduct of VolkerWessels, or their own code of conduct which satisfies the code of conduct developed by Bouwend Nederland, will apply to all the Contractor's employees as well as to third parties engaged by the Contractor.

6.3 VolkerRail is free to impose sustainability-related requirements, or additional requirements, on the Contractor's Supply.

Clause 7 – Outsourcing by the Contractor

7.1 Outsourcing or subcontracting by the Contractor is not permitted without VolkerRail's express and written consent. Consent from VolkerRail will not affect the Contractor's obligations and liability pursuant to the Agreement concluded with VolkerRail.

7.2 If, with due observance of Clause 7.1, the Contractor instructs another supplier/subcontractor to perform all or part of the Supply, the Contractor will have to draw up a written agreement containing those instructions. The Contractor will have to ensure that the other supplier/subcontractor legally binds itself to the Contractor in the same manner and subject to the same terms and conditions as the Contractor binds, or has bound, itself to VolkerRail. The Contractor will provide VolkerRail with a copy of the aforementioned agreement upon the latter's first request. The Contractor will indemnify VolkerRail against all third-party claims ensuing directly or indirectly from that agreement.

Clause 8 – General Obligations of the Contractor

8.1 The Contractor must perform the Supply and the related services and work accurately and in complete accordance with the Agreement and must ensure that this work is performed by people who are skilled and have the relevant expertise. The Agreement is understood to include, without any right to additional payment, all work that the Agreement must be understood as including given the nature of the Supply. Every aspect of the Supply must be suitable for the purpose for which the Supply is intended – whether or not this can be inferred from the Contract – and must be the same as the sample(s), model(s) and specifications that were made available or provided by VolkerRail and/or the Principal. The Supply must be accompanied by all the quality certificates and/or quality marks required by law and/or requested by VolkerRail.

8.2 The Contractor will only follow the orders and instructions issued by VolkerRail and will refrain from providing prices or offers to the Principal to expand or

change the work or Supply, to VolkerRail.

8.3 The Contractor has an obligation to warn. If the Contractor discovers, or reasonably could have discovered any errors and/or lack of clarity in the orders and/or instructions given by VolkerRail or in the drawings, descriptions, etc., made available by VolkerRail, it will be obliged to notify VolkerRail of same in writing as soon as possible. If the Contractor fails to do so, it will be considered to be acting contrary to the Agreement and the principle of good faith and it will be liable for any harmful consequences ensuing from such failure.

8.4 The Contractor undertakes to VolkerRail that it will satisfy its legal obligations to pay premiums and social security contributions, as well as wage and salary tax, relating to the work with which the Contractor has been charged, that it will do so in good time and that it will strictly comply with all applicable collective bargaining agreements and indemnify VolkerRail against all costs, loss or harm, and third-party claims in that respect.

8.5 The Contractor must ensure that it obtains, at its own expense and in good time, the consents, permits or licences necessary to performing the Agreement and that it complies with the terms and conditions imposed in or by such documents. If the Contractor fails to do so, the Contractor will be solely liable for the resulting consequences and, in such event, will indemnify VolkerRail against all loss, harm and expenses ensuing from such failure.

8.6 The performance of the Contractor's work must be fully coordinated with VolkerRail's schedule so that other work does not stagnate. In the case of an acceleration or delay, the Contractor will adhere to the amended schedule/progress without claiming any compensation for doing so.

8.7 Supplies and partial Supplies and materials in the context of the Supply and/or partial deliveries can only be considered as having been definitively accepted after VolkerRail approves them as such. Approval will not relieve the Contractor of its obligations regarding the quality of the Supply and meeting of the requirements stipulated in the Agreement. VolkerRail will be entitled to withhold the aforementioned approval or revoke that approval if VolkerRail has not in turn obtained approval from the Principal. In such event, VolkerRail will be entitled to suspend its payment obligations to the Contractor until the Supply is approved or to set off the costs of repairs against those of the Contractor's invoices that have become due and payable, without prejudice to VolkerRail's right to claim compensation and/or specific performance with replacement compensation from the Contractor.

8.8 As soon as the Contractor suspects, knows or should know that it cannot perform the Agreement, or cannot do so in full or on time, the Contractor will inform VolkerRail of that fact immediately and in writing. The Contractor is liable for all loss or harm incurred by VolkerRail as a consequence of a failure to perform and will indemnify VolkerRail against all possible claims and consequences, by whatever name – including, in any event, any penalties imposed by the Principal or third-party claims in connection with a late and/or incorrect Supply.

8.9 The Contractor is considered to be aware of all statutory requirements, terms and conditions and provisions that apply to the Contract, including – but not limited to – the Foreign Nationals (Employment) Act (*Wet Arbeid Vreemdelingen*), the Compulsory Identification Act

(*Wet op de identificatieplicht*), the General Data Protection Regulation (“GDPR”), the Placement of Personnel by Intermediaries Act (*Wet Allocatie Arbeidskrachten Door Intermediairs*), and the Posted Workers in the European Union (Working Conditions) Act (*Wet Arbeidsvoorwaarden Gedetacheerde Werknemers in de EU*), as well as all safety and environmental legislation and the requirements that VolkerRail must duly observe and comply with in its dealings with the Principal. The Contractor undertakes that it will duly observe and comply with these requirements and provisions to the extent these relate to the performance of the Agreement.

8.10 The Contractor guarantees the safety, health and welfare of the workers and subcontractors it deploys for the Agreement. The Contractor and its staff or the subcontractors it deploys must comply with all applicable legislation, as well as the requirements of the Netherlands Labour Authority (*Arbeidsinspectie*) and locally applicable requirements, and it also undertakes to comply with the safety instructions included in the Agreement or issued later by VolkerRail. The Contractor will bear the costs relating to this unless the Contractor cannot reasonably be considered responsible for those costs and VolkerRail receives compensation in the same amount from the Principal.

8.11 The Contractor is also obliged to perform its work in accordance with the applicable environmental and statutory requirements and is considered to be ready to act in situations that present an imminent environmental or other hazard and to prevent and counteract any related negative effects on the environment.

8.12 The Contractor is liable for all harm or loss that VolkerRail incurs as a consequence of the Contractor’s failure to comply with laws and regulations while performing the Agreement and the Contractor will indemnify VolkerRail against all claims and consequences resulting from that failure, such as – but not limited to – fines that are imposed on the Principal and/or VolkerRail as a result of the violation of laws and regulations.

8.13 The Contractor will ensure that the Supply is accompanied by all documentation intended to ensure that the Supply and/or all the goods created by the Supply can be used properly, as well as the inspection, test, approval, verification, and warranty certificates and revision documents. The Contractor will provide VolkerRail with the working drawings at a later date to be determined by VolkerRail. Upon request, the Contractor will provide VolkerRail advice free of charge.

8.14 Upon request, the Contractor will prepare reports in accordance with a model to be provided by VolkerRail. The Contractor will complete weekly reports, sign them, and offer them to VolkerRail for approval.

8.15 VolkerRail may request the Principal or its authorised agent to issue its orders and instructions directly to the Contractor. In that case, contrary to the provisions in Clause 8.2 of these General Terms and Conditions, the Contractor will be obliged to follow the orders and instructions issued by the Principal or its authorised agent, provided that it has received a copy of VolkerRail’s request.

8.16 Contract variations will only be eligible for set-off if VolkerRail has issued an express written engagement or has granted its approval prior to the relevant work *and* to the extent that VolkerRail will be compensated in turn by the Principal for these contract variations. The Contractor’s claim for this must have reached VolkerRail at least four

weeks prior to the delivery pursuant to the Supply. The Contractor will only be entitled to claim compensation due to circumstances that increase its costs if and to the extent that VolkerRail can make the same claim in respect of the Principal and the Principal has paid VolkerRail what is owed pursuant to that claim.

8.17 The Contractor will proactively notify VolkerRail if the goods that are part of the Supply, or part of those goods, will reach their End of Life and the Contractor will make its best efforts to afford VolkerRail a final opportunity to place another purchase order for such goods and/or parts. The Contractor will notify VolkerRail of such goods and/or parts at least six months before an End of Life. Without prejudice to the aforementioned obligation, the Contractor is also obliged to notify VolkerRail in writing of any End-of-Life notification received from the Contractor’s suppliers within no more than five business days after the Contractor receives such notification.

8.18 The Contractor undertakes that – upon VolkerRail’s request to that end – it will supply the necessary parts or spare parts for the Supply delivered to VolkerRail and that such parts will be of the same type as the original parts or be interchangeable parts (functional equivalents of the same quality). This equivalent will require the approval of VolkerRail and its Principal.

Clause 9 – Prices

9.1 The agreed price is fixed and binding, exclusive of turnover tax (VAT) and encompasses all the direct and/or indirect costs that have been or will be incurred by the Contractor unless the Agreement expressly stipulates otherwise. All costs that relate to the preparation and performance of the Agreement are considered to be included in the agreed price. Changes in prices, wages, costs, social security contributions, taxes and other cost-increasing factors, including risks, are not eligible for set-off. The Contractor will not accept unilateral indexations.

9.2 The prices for the Supply are equal to the fair market price and are verifiably based delivery duty paid (DDP) – at a location indicated by VolkerRail – including the costs for packaging, loading, transport, unloading, quality marks, quality inspections and insurances, but exclusive of turnover tax (VAT).

Clause 10 – Inspection, Testing and Approval

10.1 VolkerRail and/or its designated third parties will be entitled at all times to view, inspect and/or test the goods or the work which is being performed or the services that are being rendered by the Contractor pursuant to its engagement with VolkerRail, and the Contractor will make the necessary facilities available to that end.

10.2 The viewing, inspection or testing referred to in Clause 10.1 will not release the Contractor from any warranty and/or liability ensuing from the Agreement and/or the law.

10.3 Approval of the Supply and/or approval of the other goods, documents and/or drawings delivered by the Contractor will not release the Contractor from any obligation, warranty and/or liability ensuing from the Agreement and/or the law.

10.4 Without prejudice to the right to dissolve referred to in Clause 18 and the right to compensation, VolkerRail, after rejecting the Supply, will also be entitled to demand specific performance, within a reasonable period to be set by VolkerRail, of that the part of the Supply that meets, or

could meet, the terms of the Agreement without VolkerRail becoming liable to pay any amount in compensation over and above the previously agreed price.

10.5 If and to the extent that the Supply must possess features whose presence can only be established after the set-up, assembly, or fitting of the Supply, the final approval or final test of the Supply will not take place until after the Supply, or the object for which the Supply is intended, is at an advanced enough stage that it can be established whether the Supply meets the terms of the agreement.

Clause 11 – Delivery Times and Deadlines

11.1 The dates, deadlines and/or delivery times in the Agreement constitute absolute deadlines and the timely performance of the contractual obligations is an essential obligation on the part of the Contractor.

11.2 VolkerRail reserves the right to change the order in which the work must be performed, or to change the volume being purchased and/or to change the date of the Supply to a later date, possibly on a call-off basis, in order to adjust to the progress of the work. This will not entitle the Contractor to change the price or claim any other type of compensation.

11.3 As soon as circumstances arise or can be foreseen causing the Contractor to be unable to perform the obligations in paragraph 1 of this Clause, the Contractor will immediately communicate such to VolkerRail in writing, stating the nature of the circumstances, the measures the Contractor has taken and the expected duration of the delay, in default of which the Contractor will no longer be able to rely on these circumstances in the future. The Contractor will be unable to rely on *force majeure* if it fails to meet this obligation.

Clause 12 – Warranty

12.1 The Contractor warrants that the Supply will be sound and free of any defects in design, construction, assembly or materials, and that it will accord with the terms that have been agreed and with the documents that form part of the Agreement, as well as that it will be fit for the purpose for which it is intended – whether or not this is stated in the Contract – and in accordance with the requirements that may otherwise be imposed on it, or might reasonably be imposed on it, by the government.

12.2 The Contractor warrants that it will remedy all defects which may arise in the Supply without charging VolkerRail for this, unless the Contractor can demonstrate that these defects were not the consequence of defects in the design or the performance of the Supply or in the materials used or delivered by the Contractor. The Contractor also undertakes to remedy such defects as soon as possible, but in any event within the reasonable period which VolkerRail sets for doing so. The Contractor will bear any costs associated with remedying the defects, including but not limited to the costs of fitting, removal, disassembly, transport and any interruptions of service.

12.3 The warranty period referred to in Clauses 12.1 and 12.2 is five years, unless the Contract requires a longer warranty term for the purpose for which the Supply is intended, in which case the longer warranty period will prevail. If goods are delivered, the warranty period will commence after Delivery and approval by VolkerRail in accordance with Clause 28.1 of these General Terms and Conditions; if work is performed or services are rendered, the warranty period will commence after the Supply is

approved and VolkerRail has issued a report in this respect in accordance with Clause 30.1 of these General Terms and Conditions or after the Supply is commissioned or the work/object for which the Supply is intended, in which respect the warranty period will commence upon the occurrence of whichever of the events above occurs last.

12.4 In the absence of proper performance of the obligation to remedy defects and/or render performance within the term set for doing so, as well as in urgent situations, VolkerRail will be entitled to perform the necessary work, or cause it to be performed by a third party, at the Contractor's risk and expense.

12.5 Starting on the date of replacement, the Contractor will hold title to, and bear the risk associated with, the goods to be replaced pursuant to the aforementioned obligation to remedy defects. The Contractor must take possession of such goods as soon as possible at its own risk and expense unless VolkerRail requests the Contractor to provide the goods to be replaced to VolkerRail for inspection at the Contractor's risk and expense.

Clause 13 – Liability and Insurance

13.1 The Contractor is liable for all direct and indirect loss or harm incurred by VolkerRail, by whatever name and regardless of how it arises, that results or ensues from the Contractor's failure to perform or failure to comply with its obligations pursuant to the Agreement, the present General Terms and Conditions and/or the law. The Contractor will indemnify VolkerRail against all costs, loss or harm and third-party claims relating thereto, such as, but not limited to: those of the Principal, future owners, users, governments, and the Contractor's staff, its subordinates as referred to in Article 6:170 DCC and its non-subordinates as referred to in Article 6:171 DCC.

Direct loss or harm is understood to mean any loss or harm that could reasonably be expected from this failure to perform at the time the failure occurs. This includes at least the costs of remedial or renovation work, the costs of establishing the amount of the loss or harm, and the costs of any loss or harm that results directly from the failure to perform.

13.2 The Contractor is obliged to insure itself adequately against the risks ensuing from its statutory and contractual liability. The Contractor is also obliged to obtain adequate insurance for all goods which it possesses or uses in the context of the Agreement as long as the Contractor bears the risks associated with those goods. In particular, the Contractor is required by the Civil Liability Insurance (Motor Vehicles) Act (*Wet aansprakelijkheidsverzekering motorvoertuigen*) to insure its vehicles and keep them insured. The Contractor is obliged to ensure that it has insurance in accordance with the minimum statutory requirements and with a minimum cover of EUR 2,500,000 per event and is always obliged to pay the premiums for that insurance on time, in default of which VolkerRail will be entitled to dissolve the Agreement without prejudice to VolkerRail's other rights. The Contractor will provide VolkerRail with a copy of the policy upon the latter's first request.

13.3 The Contractor will indemnify VolkerRail against any costs, loss or harm and claims due to the infringement of intellectual property rights held by third parties in relation to the goods it delivers and/or services it renders and it will make every effort to ensure that VolkerRail will be able to take possession of the Supply freely and without

obstruction. The Contractor will bear all costs ensuing from this obligation, including those of VolkerRail.

13.4 The Contractor will bear the risk and expense of any loss of or damage to devices and tools which the Contractor uses in performing the Supply.

Clause 14 – Assignment of Rights and Obligations

Unless it has obtained VolkerRail's advance written consent and a written statement of approval from a third party, such as a bank, the Contractor is prohibited from assigning, pledging or in any way transferring, by whatever name, the rights which it can assert against VolkerRail pursuant to this Agreement. This prohibition will also have effect under property law. Conditions may be attached to this consent, such as enforcing the prohibition in respect of the portion that must be deposited in the G account.

Clause 15 – Payment and Invoicing

15.1 If the Contractor has met its obligations pursuant to the Agreement, the Contractor will invoice VolkerRail for the agreed price.

15.2 Unless agreed otherwise, the payment term will be 60 days after receipt of a correct invoice. If the Contractor qualifies as an SME (*mkb-onderneming*) in accordance with the provisions of Article 6:119a(6) DCC, the payment term will be 30 days. The Contractor will notify VolkerRail in good time of, and provide VolkerRail upon its first request with, the necessary documents and information that adequately show whether the Contractor's business qualifies as an SME in accordance with the provisions of Article 6:119a(6) DCC.

15.3 Before payment can be made, the invoice must be accompanied by the required documents and the invoice must meet the requirements ensuing from the Turnover Tax Act 1968 (*Wet op de Omzetbelasting 1968*) and – if applicable – the Collection of State Taxes Act 1990 (*Invorderingswet 1990*). VolkerRail will always be entitled to set off the Contractor's claims against the amounts owed by the Contractor, regardless of whether said amounts are due and payable or are only owed subject to temporal provisions or other conditions.

15.4 The Contractor will only be able to claim payment of statutory interest after it has served VolkerRail with written notice of default after the latest day by which payment should have been made, and VolkerRail still fails to pay that amount within the period set in the notice of default. The Contractor's claim for interest will never encompass interest compounded on interest.

15.5 The Contractor cannot claim payment of interest if VolkerRail's non-payment results from an attributable failure to perform on the part of the Contractor and this attributable failure entitles VolkerRail to rely on a right of suspension with regard to the amount on which interest is being sought.

15.6 VolkerRail will be entitled at all times to set off the amounts owed to the Contractor against the amounts which other VolkerRail affiliates that are part of VolkerWessels Nederland B.V. can claim from the Contractor, regardless of how this amount came to be owed.

15.7 After the Contractor has been served with notice of default and fails to perform, or fully perform, its obligations within a reasonable period set for doing so, VolkerRail will be entitled to demand that the Contractor furnish security for the performance of its obligations in an amount equal to the performance that it has failed to render, plus any

indirect and/or direct costs incurred by VolkerRail in this context. In such case, security may be demanded in any event in the form of the furnishing an irrevocable and immediately due and payable bank guarantee by a bank – with a minimum AA status – that is acceptable to VolkerRail. Failure to furnish such security will entitle VolkerRail to dissolve the Agreement immediately and without any judicial intervention being required, without prejudice to VolkerRail's right to compensation, including any lost profit and reimbursement of judicial or extrajudicial collection costs.

15.8 VolkerRail is entitled to suspend payment for any Supplies it rejects. Moreover, VolkerRail is entitled to suspend payments to the Contractor if the Contractor does not meet its contractual obligations, or fails to do so in full or in good time.

15.9 If VolkerRail requires the Supplier to provide certificates and/or one or more instruction manuals in connection with a Supply, the Contractor will ensure that this documentation is in VolkerRail's possession as soon as possible, but within ten business days after delivery, at the latest, in default of which VolkerRail may suspend payment of any instalments and/or other amounts which VolkerRail owes the Contractor.

15.10 Unless expressly agreed otherwise in writing, invoices from the Contractor regarding the Supply must be accompanied by an enclosure/attachment showing VolkerRail's order and containing the information and/or enclosures/attachments listed below:

- purchase order, including purchase order number;
 - project number and an original and complete supplier's receipt;
 - written engagement, including the name and signature of an authorised company officer;
 - a man-hours register including each employee's name, citizen service number, date of birth, period in which they work, and number of hours worked.
- In addition, the Contractor must state at least the following information, in a clear and visible manner, on dated and numbered invoices:
- the Contractor's name, address and city of registered office;
 - the Contractor's wage tax number;
 - the period and performance rendered to which the invoice relates;
 - the nature of the work;
 - the amount already invoiced, including the relevant invoice;
 - the amount still to be invoiced;
 - a statement regarding whether the reverse-charge mechanism applies to the turnover tax and, if it does, the amount of turnover tax owed and the percentage that is subject to reverse-charge;
 - G account number and the percentage withheld from the wage bill.

15.11 VolkerRail will not process invoices that do not meet the requirements set out in paragraph 8 of this clause.

15.12 The Contractor is not entitled to increase an invoice amount by the amount of a credit penalty mark-up.

Clause 16 – Confidentiality

16.1 The Contractor undertakes to VolkerRail that it will observe confidentiality in dealings with third parties with regard to the request for a quotation, the quotation, engagement, Agreement, drawings, models, constructions,

schedules and/or other company information and know-how originating from VolkerRail and which VolkerRail provided to the Contractor, all in the broadest sense of the terms. The Contractor will conclude the same non-disclosure agreement, in writing, with any staff it deploys and/or any third parties it engages. The Contractor will provide proof of such conclusion to VolkerRail upon the latter's first request.

16.2 If the Contractor fails to perform the obligation(s) included in Clause 16.1 of these General Terms and Conditions, it will owe VolkerRail an immediately due and payable penalty – which will not be eligible for judicial mitigation – of EUR 25,000 for each such failure and another EUR 5,000 for each day such failure continues. All this is without prejudice to VolkerRail's right to claim full compensation from the Contractor.

Clause 17 – Liability of Temporary Workers, Subcontractors and Clients

17.1 If the vicarious tax liability regulations whereby the main contractor is ultimately responsible for the tax and national insurance liabilities of subcontractors (*ketenaansprakelijkheid*) applies, the Contractor will strictly comply with all of its obligations in respect of the employees it deploys. The Contractor will be liable and will indemnify VolkerRail against all harm or loss and third-party claims resulting from the Contractor's failure to comply with its obligations pursuant to the vicarious tax liability regulations.

17.2 Immediately after an agreement is reached between the Contractor and VolkerRail, or in any event before performing any work, the Contractor must provide VolkerRail, or arrange to have VolkerRail provided, with the following:

- a. a recent extract from the Commercial Register of the Chamber of Commerce;
- b. for examination: valid identity documents and wage statements, and, to the extent required, valid work permits, for all workers deployed to perform the work;
- c. man-hours register for all workers the Contractor deploys to perform the work, which must contain the following information for each employee/subordinate: name, citizen service number, wage tax number for the Tax and Customs Administration and the number of hours worked on each date;
- d. the G account agreement and the original statements regarding the Contractor's payment history with the Tax and Customs Administration, no more than three months old, showing that the Contractor has met its statutory obligations to pay wage taxes in a timely fashion.

Unless agreed otherwise, the Contractor must upload the aforementioned documents to For Suppliers. Should the Contractor not yet have a For Suppliers account and/or has not yet been linked to "VolkerWessels Infrastructuur" within For Suppliers, the Contractor must report this to VolkerRail by sending an e-mail to the central e-mail address for VolkerRail's purchasing department: inkoop@volkerrail.nl

17.3 VolkerRail will not pay invoices that do not meet the requirements set forth above in Clauses 15 and 17. If the statements and/or documents submitted as referred to in Clause 17.2 are more than three months old, VolkerRail will be entitled to suspend payment of the Contractor's invoices. VolkerRail will notify the Contractor immediately of such suspension. The Contractor is obliged to notify VolkerRail immediately and in writing of any changes in or

relating to the information referred to in the previous paragraph.

17.4 Because VolkerRail is jointly and severally liable to the Contractor, pursuant to the Collection of State Taxes Act 1990, to pay the social security contributions and wage tax owed in relation to the work, VolkerRail will always be entitled to pay that amount by depositing it in the Contractor's blocked account within the meaning of the Collection of State Taxes Act 1990. In the aforementioned situation, VolkerRail will be discharged in respect of the Contractor for the amounts it has paid.

VolkerRail will deposit 20% of the invoice amount (incl. VAT), or 40% of the wage bill portion stated on the invoice, in the Contractor's G account.

17.5 If, after being held liable for the unpaid wage taxes, VolkerRail, or its successor subcontractors or self-employed contractors or suppliers of personnel or the workers they hire in, must pay these wage taxes, VolkerRail will have recourse against the Contractor for the entire amount VolkerRail has paid, such in deviation from the provisions of Articles 55 and 56 Collection of State Taxes Act 1990. VolkerRail's claim will be increased by statutory interest (or commercial statutory interest) and any costs incurred.

17.6 By VolkerRail's fulfilment of the obligations it has to the Contractor's employees pursuant to the applicable collective bargaining agreement, VolkerRail will have recourse against the Contractor for the entire amount VolkerRail has paid in that context. VolkerRail's claim will be increased by statutory interest (or commercial statutory interest) and any costs incurred.

17.7 In the event of the Contractor's bankruptcy, VolkerRail will be entitled to suspend its payment obligations until VolkerRail has received a statement of indemnification (*vrijwarende verklaring*) from the Tax and Customs Administration showing that VolkerRail will not be held liable pursuant to the Liability of Temporary Workers, Subcontractors and Clients 2004 Implementing Regulations (*Uitvoeringsregeling inleners-, keten- en opdrachtgeversaansprakelijkheid 2004*) or pursuant to the provisions regarding vicarious tax liability and Temporary Workers' liability due to the Contractor's wrongful failure to pay wage taxes. The bankruptcy trustee or pledgee or assignee will bear the obligation to obtain the aforementioned statement(s).

Clause 18 – Full or Partial Dissolution

18.1 VolkerRail will be entitled to dissolve the Agreement in full or in part if:

- a) the Contractor is declared bankrupt;
- b) the Contractor applies for a suspension of payment or debt restructuring and/or the Contractor offers a composition within the meaning of the Court Approval of a Private Composition (Prevention of Insolvency) Act (*Wet Homologatie Onderhands Akkoord*);
- c) the Contractor ceases its business operations or transfers control of said operations to another party;
- d) the Contractor merges or obtains control of a company that is a direct or indirect competitor of VolkerRail;
- e) the Contractor is placed under guardianship;
- f) an attachment or seizure is imposed on the Contractor which hinders the Contractor's performance of the Agreement;

- g) a gift or promise, of any type whatsoever, that is unacceptable to VolkerRail is given or offered to staff for which VolkerRail or the Principal is responsible;
- h) the Principal must revoke the engagement it awarded to VolkerRail that relates to the engagement which VolkerRail awarded to the Contractor on the basis of *force majeure*, which includes the occurrence of such a comprehensive change in political and/or economic circumstances that the Principal and/or VolkerRail cannot reasonably be required to continue the first-mentioned engagement;
- i) the Contractor does not perform the obligations pursuant to Clauses 6, 7, 8, 14, 16, 17 and/or 32;
- j) the agreed delivery deadline or dates (which may or may not ensue from delivery schedules) are missed, or if it becomes clear before the deadline or date passes that the deadline or date will be missed;
- k) the materials intended for the Supply do not meet the agreed requirements in relation to quality, dimensions, tolerances, volumes, etc.

18.2 Dissolution will be effected, without any notice of default or judicial intervention being required, by means of VolkerRail's written notification to the Contractor. In the event of a dissolution, settlement will take place based on the performance which the Contractor has already rendered and which VolkerRail has accepted, possibly including a set-off of the amount in compensation to which VolkerRail is entitled due to the Contractor's failure to perform the Agreement. Any warranty rights held by VolkerRail will remain in full force and effect.

18.3 If the situation referred to in Clause 18.1(h) arises, VolkerRail will only owe the Contractor compensation if and to the extent that VolkerRail can claim compensation from, and has been paid that compensation by, the Principal with regard to the portion of the work with which the Contractor was charged and/or the Supply.

18.4 VolkerRail will otherwise never be liable to pay any compensation or reimbursement, and in particular any compensation as set forth in Article 7:764(2) DCC.

18.5 In the situations referred to in Clause 18.1 – except for the situation referred to at g – VolkerRail will be entitled to use or arrange the use of the materials and building materials, as well as any auxiliary equipment, such as scaffolding and lifting or transport vehicles, etc. which the Contractor has brought to and/or used at the site in order to complete the engagement.

18.6 The provisions in this clause do not restrict the options to dissolve the Agreement in the instances for which the law allows for this.

Clause 19 – Child Labour and Human Rights

19.1 The Contractor will make every effort to ensure that none of the products or services it supplies to VolkerRail are the product of child labour as defined in International Labour Organisation (ILO) Convention 138 on the minimum age of admission to employment and Convention 182 on the prohibition and immediate action for the elimination of the worst forms of child labour.

19.2 The Contractor declares that it complies with the principles of the Universal Declaration of Human Rights issued by the United Nations (available for review at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>).

Article 20 – Certificates

20.1 If the Agreement and/or the Principal require(s) certificates, attestations and/or instruction manuals, the Contractor will provide these to VolkerRail without undue delay, in default of which VolkerRail will be entitled to suspend payment until such documents are received.

20.2 Upon VolkerRail's first request, the Contractor will provide VolkerRail – at the Contractor's expense – with an inventory of its CO₂ emissions for the year in which the Supply was made and the immediately preceding year. This inventory must conform to ISO 14064-1 and/or the GHG Protocol. The CO₂ emissions inventory must be accompanied by a verification statement from a certification institution (CI). This verification statement by the CI must at least meet the requirements as set forth in ISO 14064-3 under "validation and verification statement" and/or as set forth in EA-6/03 under "verification statement".

Clause 21 – Publication

The Contractor is not entitled to publish or disclose, on a website or otherwise, the Agreement with and/or engagement by VolkerRail unless it has obtained VolkerRail's express written consent, in advance, from a duly authorised person within VolkerRail, such on pain of a penalty of EUR 25,000 for each such violation of this publication clause and another EUR 5,000 for each day such violation continues, without prejudice to VolkerRail's right to full compensation.

Article 22 – Applicable Law

The Agreement and any agreements ensuing therefrom are governed exclusively by Dutch law. Any applicability of the UN Convention on Contracts for the International Sale of Goods is hereby explicitly excluded.

Clause 23 – Disputes

23.1 All disputes – including those which are only considered disputes by one of the parties – which may arise in relation to the present agreement or other agreements which may ensue from or relate to the present agreement will be adjudicated by the Arbitration Board for the Building Industry [*Raad van Arbitrage voor de Bouw*]. This provision will not affect the parties' entitlement to initiate proceedings before the competent civil court to take protective measures or to determine, in mutual consultation for each dispute, that a given dispute will be adjudicated by the competent civil court, without prejudice to the parties' rights to initiate an appeal and/or an appeal in cassation and without prejudice to VolkerRail's authority to have a dispute adjudicated in the manner stipulated in the agreement between VolkerRail and its Principal with regard to any disputes between VolkerRail and its Principal.

23.2 Should disputes arise for whatever reason, the Contractor will not be entitled to suspend its performance of, or to alter, its obligations pursuant to the Agreement. The Contractor also fully and irrevocably waives its right of retention.

Clause 24 – Partial Nullity

If one or more of the provisions of these General Terms and Conditions are null and void or otherwise non-binding, this will not affect the validity and applicability of the other provisions of these General Terms and Conditions. The parties undertake that they will in that case negotiate to draft provisions that reflect as closely as possible the non-

binding provision in the context of these General Terms and Conditions.

Clause 25 – Continuing Obligations

The clauses of these General Terms and Conditions that contain provisions of a continuing nature (such as, but not limited to Clauses 5, 12, 13, 16 and 20) will remain in full force and effect even after the termination of the Agreement, which means that Contractor will continue to bear the obligations ensuing from those clauses even after the termination of the Agreement.

Clause 26 – General Data Protection Regulation

26.1 To the extent that Personal Data are Processed in the context of the performance of the work, these Personal Data will be Processed in a proper and careful manner in accordance with the General Data Protection Regulation (“GDPR”).

26.2 The capitalised words in this clause that are not defined in these Conditions of Purchase adhere to the definition in Article 4 GDPR. Suitable technical and organisational measures will be taken to protect the Personal Data against loss or any other form of unlawful Processing, taking into account the prior art and the nature of the Processing.

A. In the event the Contractor is the Processor and VolkerRail is the Controller, the Contractor will ensure that a processing agreement is concluded, in which respect VolkerRail’s model processing agreement will be concluded.

To the extent that VolkerRail and the Contractor have not yet concluded a processing agreement, the provisions up to and including paragraph 11 of this Clause 26 will apply.

26.1 The Contractor will only process the Personal Data at VolkerRail’s behest and exclusively based on VolkerRail’s written instructions, subject to any statutory obligations that require otherwise.

26.2 The Contractor will ensure that the persons authorised to process the Personal Data have undertaken that they will observe confidentiality.

26.3 The Contractor will not provide or make available any Personal Data to a third party unless this is done pursuant to either an explicit written instruction of VolkerRail or an order rendered by a judicial or administrative body. The Contractor will inform VolkerRail as soon as possible, but in any case within 48 hours, about every judicial order, summons, statutory obligation or any other obligation to share Personal Data with third parties.

26.4 The Contractor must inform VolkerRail immediately, but in any event within 12 hours after the Contractor becomes aware of any security breach – of any nature whatsoever – that relates, or could relate, entirely or in part, to the Processing of Personal Data (“Data Breach”). Upon request, the Contractor will provide VolkerRail immediately and free of charge with all information that VolkerRail needs in order to assess whether the aforementioned breach is a Data Breach that needs to be reported to the Dutch Data Protection Authority. If VolkerRail is of the opinion that there is a Data Breach that must be reported, the Contractor will provide VolkerRail immediately and free of charge with all information VolkerRail needs to make such a report.

The Contractor will then keep VolkerRail informed of the new developments regarding the Data Breach.

The costs incurred to report and resolve the Data Breach will be borne by the party incurring the costs unless the Data Breach arose due to the Contractor’s failure to perform the Agreement, in which case the Contractor will bear the costs.

In addition, VolkerRail reserves the right to pursue other legal remedies. Any communication about the Data Breach will always be done in consultation.

26.5 The Contractor is only allowed to engage third parties in the performance of this Agreement after obtaining VolkerRail’s prior written consent.

26.6 The Contractor will inform VolkerRail within four business days about any request and/or any complaint of the Dutch Data Protection Authority or the Data Subject regarding the Personal Data being Processed in the performance of the Agreement.

26.7 The Contractor will provide VolkerRail with all required cooperation in the performance of VolkerRail’s obligations to: (i) meet requests from data subjects regarding Personal Data; (ii) take appropriate technical and organisational measures to ensure a level of security appropriate to the risk; (iii) report data breaches to the supervisory authority and the data subjects; (iv) conduct a data protection impact assessment; (v) consult the supervisory authority prior to Processing that entails a high risk of privacy risk.

26.8 After the end of the Agreement, the Contractor will return the Personal Data to VolkerRail immediately and/or erase it at VolkerRail’s request, and remove any existing copies, subject to any statutory obligations to the contrary.

26.9 The Contractor will inform VolkerRail immediately in writing if, in the Contractor’s reasonable opinion, an instruction results in an infringement of the applicable privacy legislation, including the General Data Protection Regulation and the related implementing legislation (“Privacy Legislation”).

26.10 The Contractor will provide VolkerRail with all the information necessary to demonstrate compliance with the obligations laid down in this Clause 20 and which enables and contributes to audits, including inspections, conducted by VolkerRail or another auditor authorised by VolkerRail.

26.11 The Contractor will indemnify VolkerRail against third-party claims, including but not limited to those of the Dutch Data Protection Authority and data subjects, in connection with the Contractor’s attributable failure to comply with Clause 20 and/or the Contractor’s violation of the Privacy Legislation, and will bear all costs relating to or ensuing from the same (including the costs of legal assistance), and will reimburse the loss incurred by VolkerRail.

B. To the extent that VolkerRail and the Contractor are jointly responsible, the Parties will conclude a reciprocal arrangement based on Article 26 GDPR.

C. If there is no processor relationship (part A. of this clause) or joint responsibility (part B. of this clause), the provisions of paragraphs 12 up to and including 18 of this Clause 20 will apply to both Parties:

26.12 The Parties have established that they both qualify as independent Controllers. In the context of the exchange of Personal Data, both parties have the following obligations, without prejudice to the parties’ statutory obligations under the GDPR. The Parties will ensure that their own employees and workers they hire in, as well as all

third parties they engage, will observe the following obligations. The Parties will Process the Personal Data in a careful, proper and transparent manner, exclusively for the purpose for which they have been supplied.

26.13 The Parties will treat as confidential all data and information, including Personal Data, they provide to each other and which they receive in the performance of the Agreement.

26.14 Each party will take appropriate technical and organisational measures that guarantee a suitable level of protection to protect Personal Data against loss or any form of unlawful Processing.

26.15 The Parties will lend one another all cooperation that is required to meet the statutory obligations, including informing the Data Subjects and reporting a Data Breach or potential Data Breach as soon as possible. The Party that receives a request from a data subject will respond to this request of that data subject.

26.16 After the work, services and/or deliveries end, each party, at the other's request, will delete the Personal Data with which they were provided unless there is a statutory basis for retaining these Personal Data. Without prejudice to their own responsibilities and obligations, each Party will notify the other Party immediately, but in any case within 24 hours after discovery, of every Data Breach that pertains or may pertain, in whole or in part, to the processing of Personal Data that was obtained and/or will be processed in the context of this Agreement, accompanied by the reasonably required information to the extent that the Party in question has this information at its disposal. The Contractor will submit a notification via the e-mail address: meldpunt@volkerwessels.com.

26.17 The Parties will keep each other informed of new developments about the Data Breach and will also consult with each other about the measures taken to mitigate and end the Data Breach and to prevent similar incidents in the future. The Parties will notify the Supervisory Authority of the part of a Data Breach for which they are responsible. The same holds true for the notification to the Data Subjects.

26.18 The Contractor is obliged to impose the obligations pursuant to this clause, unabridged, on all third parties it engages in the performance of the Agreement. In turn, the Contractor will ensure that, to the extent applicable, the aforementioned third parties also impose these obligations contractually on other parties involved.

CHAPTER 2: PURCHASING

Clause 27 – Delivery, Packaging and Shipment

27.1 Unless agreed otherwise in writing, the Contractor will make the Delivery DDP in accordance with the definitions stated in the most recent version of the Incoterms in place on the date the Agreement was formed, and will unload the shipment at the location stated by VolkerRail in the engagement. If, prior to the Delivery, VolkerRail requires the goods to be delivered to a location other than the one stated in the engagement, the Contractor will be obliged to satisfy this request unless the Contractor cannot reasonably be required to do so. The Supply will be transported by or on the instruction of the Contractor, and at the Contractor's risk and expense. The Contractor will ensure that the Supply is packaged in accordance with the applicable packaging agreement. The Contractor will bear any expense associated with breakage

and/or damage that occurs in relation to, or during, loading, transport and/or unloading unless the Contractor demonstrates that the damage was caused by an intentional act or omission or deliberate recklessness on the part of VolkerRail. Deliveries must be accompanied by delivery documents/packing lists containing the correct description of the materials delivered and the quantities delivered.

27.2 Delivery must be made on the date set forth in the Agreement and/or the engagement and/or in accordance with the timetable VolkerRail stated in the Agreement/engagement. Unloading must be done within the working hours applicable at VolkerRail or for the relevant work. Unloading can only be done outside the working hours applicable at VolkerRail or for the relevant work after obtaining VolkerRail prior written approval.

27.3 If, for whatever reason, VolkerRail is unable to receive the Supply on the agreed date and/or at the times VolkerRail has set forth in the timetable that VolkerRail has stated and/or established, then the Contractor will retain and secure the Supply, and take all reasonable measures to prevent any damage to and/or deterioration of the quality of the Supply, until Delivery can be made. VolkerRail will bear the demonstrably necessary costs which the Contractor consequently incurs for storage and insurance.

27.4 The agreed delivery time and/or date set forth in the delivery schedule is binding on the Contractor, on the understanding that VolkerRail will be entitled, without the Contractor being entitled to any price change or additional fee, to postpone the Delivery to a date that is later than the previously agreed date, provided that the Delivery is not postponed by more than 90 days.

27.5 Unless agreed otherwise, there will be no charge for the packaging in which the goods are delivered to VolkerRail. If a packaging fee is agreed, the Contractor will retrieve the packaging paid for by VolkerRail at VolkerRail's first written request, subject to refund of the fee that VolkerRail was charged and has since paid. Packaging that is environmentally harmful will remain the property of the Contractor and must be retrieved immediately after it unpacks the goods and removed at the Contractor's own expense. If necessary, or if VolkerRail so desires, the Contractor or its employees must use appropriate personal protective equipment during unpacking. The Contractor will retrieve, upon VolkerRail's first request and at the Contractor's own expense, other packaging for which VolkerRail has not been charged.

27.6 The goods to be delivered by the Contractor in accordance with the Agreement must be marked in accordance with VolkerRail's instructions. To the extent applicable, the relevant goods must be provided with a type, serial and device number, as well as a statement of origin by means of a clear mark or sign originating from the importer or manufacturer.

27.7 The Contractor is obliged to provide a written and signed statement to VolkerRail indicating whether the Supply contains any substances that may be on the ECHA (European Chemicals Agency) candidate list. If those substances are present, this statement must also indicate whether the concentration of such is more than 0.1 percent by weight. The statement must also explicitly indicate which substances are present and their percentages by weight.

27.8 The Contractor will make its best efforts in terms of sustainability when dealing with packaging, such as reusing the packaging, using biodegradable materials, etc.

Clause 28 – Transfer of Title and Risk

28.1 Title to and the risk associated with the Supply will transfer to VolkerRail after the Delivery has been made to VolkerRail at the agreed location and after VolkerRail has approved the Supply. The goods must either be approved or rejected by no later than 30 days after their arrival at the agreed location.

28.2 Approval will only regard exterior condition and quantity of the goods delivered. If the goods are delivered packed and bundled, the approval and acceptance will only regard the quantity and exterior condition of the packages.

28.3 If the Supply does not meet the terms of what the parties agreed, VolkerRail will be entitled to refuse to accept the Supply and return it at the Contractor's expense.

28.4 If VolkerRail has made payments prior to the Delivery, title to the Supply will transfer to VolkerRail on the date, in proportion to and in the amount of the payment made.

28.5 Without prejudice to paragraphs 2 and 3 of this clause, any commercial terms in this Agreement are used in accordance with the most recent version of the Incoterms that applied on the date the Agreement was formed.

CHAPTER 3: CONTRACTING AND SUBCONTRACTING

Clause 29 – Contracting and Subcontracting

29.1 Prior to performing the work, the Contractor will provide VolkerRail with the information and documents sought by the latter regarding all the employees to be deployed by the Contractor and/or the necessary work permits that apply to the work location(s) relating to the Supply.

29.2 The Contractor must provide for adequate supervision and management. To that end, a manager designated by the Contractor must be present at the construction site, and that manager must have sufficient decision-making authority to manage the daily course of business relating to the work in accordance with the requirements and wishes of the construction site managers. That manager must have command of the Dutch language and the ability to act as an interpreter so that VolkerRail can issue preventive and efficient instructions. English may also be used as the working language if VolkerRail so requests.

29.3 If so requested in connection with establishing the hours worked by the persons to be deployed by the Contractor, the Contractor will use either hourly time sheets or some other means of verification, such as VolkerRail's option.

29.4 Unless agreed otherwise in writing, the working hours of the persons referred to in the sixth paragraph must be the same as the working hours of VolkerRail's employees.

29.5 VolkerRail may deny the persons referred to in this clause access to its sites and/or buildings or require the Contractor to remove those persons immediately from those sites or buildings if, in VolkerRail's opinion, those persons are manifestly unsuited to their work and/or act contrary to any obligation pursuant to the Agreement.

29.6 Unless the Contractor has obtained VolkerRail's prior written consent, the Contractor is not permitted to allow a contractor or subcontractor to perform all or part of the services to be rendered or work to be performed. If the

Contractor requests such consent, it will indemnify VolkerRail against any liability which could accrue to VolkerRail pursuant to the vicarious liability regime.

29.7 If so requested, the Contractor will attend meetings, in which respect it must be represented by someone who has decision-making authority.

29.8 Weather conditions, disruptions in the supply of and/or unavailability of natural gas, water, electricity or means of transport will not entitle the Contractor to any compensation.

29.9 The Contractor is obliged to keep the work site clean and surrender it in a clean condition, at its own expense, both during and after performing the work it is to perform. The Contractor's prices stated in the engagement are considered to include the costs of the separate transport and/or processing or removal/storage of all packaging, waste materials and suchlike ensuing from the Contractor's supplies or work.

Clause 30 – Inspection and Approval

30.1 Services or work will not count as completed until after VolkerRail has thoroughly inspected and/or approved the services/work and/or has arranged for these to be approved and has provided written proof of its approval by signing a delivery report.

30.2 The Contractor will send VolkerRail a written request for approval of the services rendered/work performed. In that context, the Contractor will indicate the date on which all services/work will be completed.

30.3 If VolkerRail so requires, the Contractor must be present at the inspection.

30.4 If another inspection is conducted after approval has been withheld, that will be done in accordance with the provisions above.

30.5 Without VolkerRail becoming liable to pay any extra fee, the Contractor will repair or replace the rejected work and/or parts of the work upon VolkerRail's first request; all of this without prejudice to any other right accruing to VolkerRail (such as the right to dissolution and compensation for any harm, loss or costs incurred by VolkerRail as a result).

30.6 VolkerRail's inspection or approval will not release the Contractor from any warranty and/or liability ensuing from the Agreement concluded between the parties or from the law.

30.7 If services/work or a part thereof are rejected, VolkerRail will also be entitled to suspend payment of the price for same.

30.8 The Contractor will submit all claims regarding the Supply to VolkerRail within 30 days after delivery of the Supply. VolkerRail will not be liable to pay any invoice which the Contractor submits after that term.

Clause 31 – Defects Liability Period

The provisions of the Agreement between VolkerRail and the Principal regarding the defects liability period will also apply to the relationship between VolkerRail and the Contractor, without prejudice to the provision regarding warranty.

Clause – Safety

32.1 The General Site Safety Instruction (GPI) is part of the Safety Code of Conduct. By no later than 1 April 2019, the Contractor's employees who perform work at a VolkerRail (=Main Contractor) construction site or location

must be in possession of a Generic Site Safety Instruction certificate, which can be obtained via the link [Explainsafe \(https://gpi.explainsafe.nl/en/home\)](https://gpi.explainsafe.nl/en/home) (choose the film that corresponds to the work to be performed), and must show this certificate upon VolkerRail's request. The certificate must be obtained *before* the work is performed. This means that an employee who does not have this certificate will not be allowed access to the construction site.

The Subcontractor guarantees and will ensure, at its own expense, that its employees in question have all the skills required for the professional, safe and efficient performance of the agreed work and have the required Generic Site Safety Instruction certificate.

32.2 When performing the Engagement, the Contractor must ensure that its employees or the third parties it engages strictly comply with the rules and requirements ensuing from the legislation regarding safety and working conditions that applies at that time. The Contractor must ensure that the employers and/or third parties it deploys always have adequate personal protective equipment at their disposal, all of this in accordance with the most recent requirements of the Netherlands Labour Authority, any other government entity and/or VolkerRail. The equipment – such as, but not limited to, lifting equipment and tools – used by or on behalf of the Contractor must also satisfy the occupational health and safety legislation (*Arbowetgeving*) that applies at that time.

32.3 The Contractor guarantees that the employees it will deploy and/or the third parties that work at a VolkerRail work location will read the safety rules in the Volker Rail instruction manual and that they will comply with those rules.

32.4 The safety rules include VolkerWessels' Be Alert! Safety First! (*Wees Alert! Veiligheid Eerst!* or *WAVE*) safety programme and the Safety Enforcement Policy for subcontractors and temporary workers (*inleners*). The safety rules, the "Be Alert! Safety First!" film and the Enforcement Policy can be viewed at [Safety - VolkerWessels](#).

32.5 VolkerWessels is one of the signatories of the Safety in the Construction Industry (*Veiligheid in de Bouw*) Governance Code. This Governance Code gave rise to the Safety in Tendering (*Veiligheid in Aanbestedingen*) initiative. On the basis of Safety in Tendering, VolkerWessels will apply the Safety Culture Ladder when purchasing the services of subcontractors. Step 3 of the Safety Culture Ladder is the minimum requirement.

32.6 Unless the Agreement provides otherwise, the Contractor will provide, at its own risk and expense, all the tools and equipment needed for the work and the Contractor itself must perform the necessary lifting work required for the work and must do so at its own risk and expense.

32.7 The Contractor's tools and equipment may only be used if these meet the applicable statutory and other provisions as well as any additional requirements that VolkerRail may impose over and above those provisions. If those requirements are not met, VolkerRail will be entitled to prohibit the use of those tools and equipment and the Contractor will be obliged to remove such tools and equipment from the site immediately and to replace them as soon as possible with tools and equipment that do meet those requirements. The Contractor will bear the risk and expense of any harm or loss arising from this, including but not limited to a delay in the performance of the work, and

this situation will not be considered a situation of *force majeure* affecting the Contractor.

32.8 VolkerRail's approval of tools and/or equipment will not release the Contractor from any liability ensuing from the use of such tools and/or equipment.

32.9 Should an accident, near-miss or environmental incident occur, the Contractor must orally inform VolkerRail of such incident immediately. The Contractor must report this in writing or electronically via VolkerRail's Quality, Safety, Health, Sustainability and Environment (*KVGDM*) coordinator by no later than 24 hours after the accident, near-miss or environmental incident. Should the Contractor fail to report the accident, near-miss or environmental incident using this form, then VolkerRail will reject all possible liability in the broadest sense of the term.

32.10 The Contractor will adhere to the "Safety Culture Ladder" requirements imposed by Prorail, in which respect VolkerRail will conduct itself consistently with the requirements imposed for the safety ladder step for which it is certified, and the Contractor will be expected to conduct itself in the same manner. Additional information is available at <https://www.volkerwessels.com/en/about-us/safety> and <https://safetycultureladder.com/en/>).

32.11 The Contractor must be in possession of an "SCC**" (Safety Checklist Contractors; *Veiligheidscertificaat Aannemers*, or *VCA*) certificate.

32.12 Other specific certificates and/or permits required for the performance of the Agreement include a professional liability insurance, an SCC for the Petrochemical Industry, a Schiphol Badge (*Schipholpas*), a Dutch Railways Access Pass (*NS Stationspas*), digital personal safety logbook (*digitaal veiligheidspaspoort*) etc. Copies of the certificate or certificates must be in VolkerRail's possession before the work commences.

32.13 If the safety rules are not complied with, a sanction may be imposed as described in the enforcement policy. Depending on the severity of the failure to comply and the circumstances of the case, the sanction may be a warning or removal from the work location, such as VolkerRail's discretion. The Contractor will bear any expense associated with the consequences of a sanction being imposed on the Contractor, its employees or the third parties engaged by it, or with removal from the work location. The imposition of a sanction and/or removal pursuant to this clause can never result in any liability on the part of VolkerRail.

Clause 33 – Laws and Regulations

33.1 The Contractor is considered to be aware of the laws and regulations that apply to the Agreement, including safety requirements and the requirements pursuant to the Working Hours Act (*Arbeidstijdenwet*), the Foreign Workers Employment Act (*Wet arbeid Vreemdelingen*), the Placement of Personnel by Intermediaries Act (*Wet allocatie arbeidskrachten Intermediairs*), the Labour Market Fraud Bogus Schemes Act (*Wet aanpak schijnconstructies*) and privacy legislation (specifically, the European General Data Protection Regulation (GDPR)). The Contractor undertakes to duly observe and comply with all applicable statutory and other requirements while performing its Engagement and deploying personnel, and to adhere to the instructions which VolkerRail issues in relation to safety requirements.

33.2 The Contractor undertakes to VolkerRail that it will strictly satisfy its legal obligations to pay premiums and social security contributions, as well as wage and salary tax, relating to the work with which the Contractor has been charged and that it will strictly comply with the applicable collective bargaining agreement.

33.3 The Contractor's employees and the third parties the Contractor deploys must at all times be able to produce a valid identity document at VolkerRail's work locations. If employees are foreigners within the meaning of the Foreign Workers Employment Act, the Contractor will provide VolkerRail with all the information and documents required under the Foreign Workers Employment Act before commencing its work.

- a) For employees from EEA Member States and Switzerland: the foreign passport, identity card.
- b) For employees from Croatia: residence permit indicating that the employee is permitted to work and a work permit (*tewerkstellingsvergunning*).
- c) For employees from all other countries: residence permit for foreign employees indicating that they are permitted to work or a residence permit and a work permit.

33.4 At first request, the Contractor will lend its cooperation to checks, audits or wage verifications being conducted in the context of the Labour Market Fraud Bogus Schemes Act, including by allowing its records to be inspected. If a check, audit or wage verification shows that the Contractor or any third party engaged by it is not paying its employees the wages they are owed, this will constitute an attributable failure in the performance of the Contractor's obligations pursuant to this Contract and the Contractor will immediately be in default without any notice of default being required. If and to the extent that the Agreement does not include any separate obligations in the context of the Labour Market Fraud Bogus Schemes Act, the obligations included in this clause will apply between the parties.