

# GENERAL CONDITIONS

## HOEFLON INTERNATIONAL B.V. – BARNEVELD

### I. General

- 1.1. These conditions are a part of every legal relationship and/or agreement, as well as of the implementation thereof, whereby Hoeflon International B.V., established in Barneveld (the Netherlands), in the following referred to as: "*Hoeflon*", acts as supplier or service provider vis-a-vis a client.
- 1.2. Any possible general conditions or purchasing conditions applied by the client, whatever they are called, are expressly rejected and are not effective with regard to the provision of services conducted or to be conducted by Hoeflon, unless these conditions or one or more provisions thereof were expressly accepted in writing beforehand.
- 1.3. Modifications to the agreement concluded between Hoeflon and the client and derogations from these General Conditions will only be effective if they have been established as such in writing between Hoeflon and the client. Such modifications in that case only apply per case.

### II. Definitions

- 2.1. Wherever reference is made in these conditions to "client", thereby is intended: the client as a natural person or the legal entity that has ordered Hoeflon to carry out activities or to deliver products.
- 2.2. Wherever reference is made in these conditions to "*activities*", thereby is intended: all activities that were commissioned, or that have to be carried out by Hoeflon on a different account and/or that flow therefrom, in order to realize the proper fulfilment of the ordered task or a correctly completed delivery, all in the widest sense of the term.
- 2.3. Wherever reference is made in these conditions to "*the work*", thereby is intended: the total of activities established between client and Hoeflon and the materials/products thereby to be delivered by Hoeflon.
- 2.4. Wherever reference is made in these conditions to "*additional work*", thereby is intended: additional activities of Hoeflon in case of a modification or adjustment later on of the quotation established between Hoeflon and the client or a modification to the implementation later on as a result of additional or changed wishes of the client, or deviations to the estimated quantity of material.
- 2.5. Wherever reference is made in these conditions to "*reduced work*", thereby is intended: reduced activities of Hoeflon with respect to the established quotation.
- 2.6. Wherever reference is made in these conditions to "*quotation*", thereby is intended: an agreement to be concluded between Hoeflon and the client, whereby Hoeflon, whether or not by way of ancillary persons, commits itself to deliver (parts and components of) hoisting, lifting and transport machines and equipment, in the following: "*the products*", and/or the provision of service and maintenance thereto and/or related services.
- 2.7. Wherever reference is made in these conditions to "documents", thereby is intended: all documentary (evidence) items provided by or on behalf of a client to Hoeflon.
- 2.8. Wherever reference is made in these conditions to "invoice amount", thereby is intended: the financial compensation (proportionate to time or otherwise) that Hoeflon stipulates for the implementation of the agreement with the client or that applies for the relevant activities.
- 2.9. Wherever reference is made in these conditions to "force majeure", thereby is intended: a non-attributable shortcoming or unforeseeable circumstance, arisen independent of the

volition of parties, with the result that (timely) compliance with the agreement cannot reasonably be demanded by client from Hoeflon (anymore).

### III. Offers and quotations

- 3.1. All verbal or written commitments made by or on behalf of Hoeflon are non-committal, unless a concrete and unconditional acceptance term is stated in the quotation.
- 3.2. An estimate of the costs involved in the implementation of an assignment or the delivery of a product made by Hoeflon always is non-committal. The client will never be able to derive any rights from such an estimate.
- 3.3. An agreement is only concluded between Hoeflon and the client after the official of Hoeflon competent according to the record of the trade register has accepted the agreement by way of a written statement of approval or confirmation and/or the client through the factual handing over of the documents required for implementation of the assignment to Hoeflon and the latter has made a start, detectable for the client, with the implementation of the assignment.
- 3.4. Cost-increasing circumstances - also in case of an agreed fixed price - such as the increased price of raw materials, materials, parts, transport, import duties, wages and assembly costs, which arise three months or later after the conclusion of the agreement, give Hoeflon the right to charge on and compensate for the consequences arising therefrom, if such circumstances increase the costs of the work by more than 5%.
- 3.5. Other cost-increasing circumstances are circumstances that occur three months after the conclusion of the agreement and
  - which are of such a nature that, when the agreement was concluded, the possibility of their occurrence could not be taken into account and which increase the cost of the work by more than 5%,  
or
  - which cannot be attributed to Hoeflon and which increase the costs of the work by more than 5%.
- 3.6. If Hoeflon is of the opinion that such cost-increasing circumstances have arisen and claims additional payment, Hoeflon must inform the principal as soon as possible in writing or electronically.
- 3.7. If the price increase, other than due to an amendment to the agreement, amounts to more than 10%, the principal will be entitled to dissolve the agreement, provided this is done in writing within 14 days after receipt of the amended price stated by Hoeflon and the request for additional payment. If the principal is not willing to pay the additional price increase, Hoeflon has the right to dissolve the agreement instead of demanding performance. In that case costs reasonably incurred by Hoeflon will be reimbursed by the principal to Hoeflon.

### IV. Implementation delivery

- 4.1. The delivery term for products enters into effect after adoption of the agreement, after Hoeflon has at its disposal all documents to be provided by client as well as data required for Hoeflon and after such advance payment as may have been established is received by Hoeflon or the security for payment requested by Hoeflon has been lodged for the benefit of Hoeflon.

- 4.2. The client is obligated to provide Hoeflon before delivery with the necessary instructions that are required for the correct shipment, acceptance, or assembly of the product.
- 4.3. Delivery terms submitted by Hoeflon are indicative and can never be considered strict time limits. The delivery term is automatically extended if stagnation occurs that cannot be attributed to Hoeflon. In case of such an overrunning of the delivery term, the client never has the right to claim compensation of additional or replacement, direct or indirect damage, nor to non-compliance or suspension of any obligation flowing from the agreement or from any other agreement, or to terminate or rescind the agreement, barring force majeure on the part of Hoeflon or default becoming effective after notice.
- 4.4. The products or matters are deemed delivered as soon as they have been received by the client and/or have been assembled. The client commits himself to provide Hoeflon (or possibly their transporter) with the opportunity to deliver the products or matters at the delivery address submitted by client and thereby to do everything that is possible to prevent or limit as much as possible waiting time for Hoeflon (or their transporter). Any possible costs related to waiting time are borne by the client.
- 4.5. Unless established otherwise, delivery in the Netherlands occurs free on truck (fot) or free on board (fob). This means that Hoeflon is exclusively liable for the matters sold and delivered by them through the moment of actual loading of the matters into the applicable means of transportation of or made available by the client, and no longer for the moment after. After the moment of loading, all risks fall to the client.
- 4.6. If the client must provide the means of transportation, he is obligated to receive the matters at the time to be notified by Hoeflon beforehand ex works. If Hoeflon must provide the means of transportation, they will timely notify the client of the date of departure and/or the expected time of arrival at the place of destination of the means of transport.
- 4.7. Hoeflon has the right in the latter case mentioned under 4.6., if the normal air, water, road, or rail transport is impossible or is structurally hampered, to send the matter in the manner that appears best to them to assure timely delivery (as much as possible), while the resulting costs or additional costs respectively are borne by the client. In such case, Hoeflon is never liable in the matter of delayed delivery.
- 4.8. If at the discretion of Hoeflon there are grounds to assume that the client will not or will not fully be able to comply with an agreement, Hoeflon has the right to demand from a client within the Netherlands advance payment or the lodging of a security up to a maximum of 50% of the total assignment before proceeding with delivery, activities, transport, ordering of transport, or with further delivery. If the client fails to do so, Hoeflon has complied with their delivery obligation by offering the matters against simultaneous payment or security to the client.
- 4.9. Delivery is deemed completed at the time when the client receives the products and/or the packing slip and/or transport document issued by Hoeflon is received and/or signed.
- 4.10. Client is subject to a purchase obligation with regard to the matters ordered from Hoeflon within 4 weeks after the delivery date submitted by Hoeflon in writing to client upon conclusion of the agreement of the date announced by Hoeflon after conclusion of the agreement on which the product is ready for acceptance at Hoeflon. As a result, client is obliged to effectively take the matters within that established period. Matters that are ready for shipment and delivery from Hoeflon must be effectively picked up after the afore-intended written notification of Hoeflon within a written 4-week term established to such effect by Hoeflon by or on behalf of client, failing which, Hoeflon has the right - if the client does not effectuate

acceptance within that 4-week term after written notification to rescind without judicial intervention the agreement after that 4-week term in writing immediately and to therefore considered it as instantly terminated, under the consequent obligation of client to compensate the damage to Hoeflon which is established in such case at an immediately payable 25% of the total invoice amount to be settled for the ordered product that was not accepted, without prejudice to demonstrable additional damage and setoffs with what may already have been paid in advance by client and the contractual interest owed thereon as from the termination date.

## V. Details of client

- 5.1. Client is obligated to timely provide all data and documents that Hoeflon judges to require for the correct implementation of the assignment granted in the form desired and in the manner desired as well to Hoeflon. In addition, client will always keep Hoeflon informed of all relevant information that is of importance for Hoeflon and the services provided.
- 5.2. Client guarantees the correctness, completeness, and reliability of the data and documents provided to Hoeflon, also in the event they derive from third parties, to the extent it does not flow differently from the assignment, and safeguards Hoeflon entirely against liability that flows from the contrary.
- 5.3. If the implementation of the assignment is delayed as a result of non-compliance with what is established in 5.2., the resulting additional costs and additional compensation are borne entirely by client.
- 5.4. Hoeflon has the right to suspend the implementation of the assignment until the moment that client has complied with the obligation mentioned in 5.1. to the satisfaction of Hoeflon.
- 5.5. If and to the extent client requests such, the documents provided to Hoeflon that are the property of client will be returned to him after implementation of the assignment at the latter's expense.

## VI. Implementation provision of services

- 6.1. Hoeflon determines the manner in which the assignment granted is carried out. Hoeflon thereby takes into account with timely provided indications of the client, as are responsible within the sector and context of the agreement, such at the ultimate discretion, however, of Hoeflon. The risk of the correct implementation of indications provided telephonically by or on behalf of the client and the means of communication used by the client lies with the client.
- 6.2. Hoeflon has three types of provision of services:
- installation;
  - maintenance;
  - advice on commissioning and training;

*Installation:* the delivery and installation by Hoeflon of compact cranes.

*Maintenance:* that fall into the following categories:

*a. maintenance agreement:* pursuant to this agreement, Hoeflon commits itself to carry out, such number of times annually as is established with the client, preventive controls of the proper functioning of products. The calling costs and labour costs for these preventive controls on locations designated by the client are not included therein. Costs of material and labour costs with regard to additional activities are billed separately.

*b. service agreement:* as the maintenance agreement, plus the execution of breakdown activities or visits in connection with breakdown notifications by client, whereby the calling costs and labour costs (whether or not for additional activities) are included.

Costs of material are billed separately. In case of breakdown activities that are necessary due to, whether or not deliberate,

damaging, inexpert use of the products, due to outside causes, such as fire, storm and/or water damage, lightning impact (direct or indirect), malfunctions in the supply of power, telecom networks, or as a result of activities that were conducted by client or third parties, all costs are billed to client separately.

*Advice on commissioning and training:* explanation by or on behalf of Hoeflon regarding the functioning of the product and the manner in which it can be used optimally in various applications, as well as the best possible maintenance thereof.

- 6.3. The client agrees that Hoeflon has the agreement implemented under his responsibility, if necessary by third parties. The applicability of articles 7:404 and 7:407 section 2 BW (Civil Code) is excluded.
- 6.4. The implementation of assignments granted solely occurs for the benefit of the client. Third parties cannot derive any rights from the content of the activities conducted and the client indemnifies Hoeflon entirely in this matter.
- 6.5. The information of the client provided to Hoeflon will be retained after termination of the assignment and/or the matter for a maximum of 7 years, after which it will be destroyed.
- 6.6. The legal claim for the release of documents to the client or his successors in title lapses after expiry of five years after the ending of the involvement in the matter (article 7:412 BW (Civil Code)). Entry into effect of this term is based barring proof to the contrary on the time the involvement of Hoeflon ends, as evinced by the announcement to the client in and with regard to the matter sent last.
- 6.7. Any possible terms established in the agreement or after by Hoeflon or client within which the activities will be carried out or products delivered only apply, unless expressly established otherwise, only by approximation and are not strict time limits. The overrunning of such a term does not constitute an attributable shortcoming of Hoeflon and therefore no grounds for the rescission of the agreement either. In case of the overrunning of such a term, Client can, however, set a new, reasonable term within which Hoeflon must, barring force majeure, have carried out the agreement. Only the overrunning of the new, reasonable term constitutes grounds for the rescission of the agreement by the client.

#### **VII. Retention of title**

- 7.1. Hoeflon remains the owner of the products or matters delivered by them to the client, until the client has complied with all his obligations, also future ones, vis-a-vis Hoeflon. The client bears the risk of loss or damaging of the delivered product or matter from the moment of first delivery, whatever it was caused by, for as long it has not been fully settled yet.
- 7.2. Without the cognizance and prior written consent of Hoeflon, the client is not authorised before the full payment of the delivered matter or product to pawn the delivered matter or product to third parties, to encumber it, or to transfer the property thereof, and Hoeflon will remain the proprietor thereof until the client has integrally complied with his payment obligations towards Hoeflon.
- 7.3. For as long as the products as a result hereof still are the property of Hoeflon, Hoeflon in case of non-compliance or of a legitimate fear of non-compliance by the client with an undertaking flowing for him from the agreement, has the right at all times, without any default notice or judicial intervention being required, to retake possession of these matters or products, wherever they are located. The buyer presently authorises Hoeflon for such case to access the area where these matters or products are located or may be located, to disassemble and to recover such.
- 7.4. The consequences in the field of property law of invoking the retention of title by Hoeflon are governed by Netherlands

legislation, unless the law of the country of destination in case of matters or products intended for export contains provisions that are more advantageous for Hoeflon than Netherlands legislation. In such case, Hoeflon may demand application of the law of the country of destination.

- 7.5. Hoeflon has the right to either keep the matters that have been recovered and that they have reacquired the possession of again under their control until the client has paid all his payables, or sell them to third parties, in which case the net proceeds will serve to be deducted from the receivables of Hoeflon that still must be settled by the client.

#### **VIII. Implementation**

- 8.1. Hoeflon will carry out the work well, properly, and in accordance with the provisions of the established quotation. The activities will be conducted on normal workdays and within the normal working hours of Hoeflon, unless established otherwise.
- 8.2. The client gives Hoeflon the opportunity to carry out the work. The client makes sure that Hoeflon timely has at their disposal all permits required for the work (such as licenses and exemptions) and the information to be provided by him for the work.
- 8.3. The client timely provides the connection options for the purpose of such power, gas, internet and/or water as may be required for the work and the testing thereof. The costs thereof are borne by the client.
- 8.4. The client must make sure that activities and/or deliveries to be conducted by third parties that are not a part of the work of Hoeflon are carried out in such a manner and so timely that the implementation of the work is not subjected to any delays as a result. If delays in the sense of this article nevertheless arise, the costs involved are borne by the client.
- 8.5. The client bears the risk of damage caused by:
  - a. errors or defects in the constructions and work methods expressly requested by him;
  - b. defects or unsuitability in matters (materials or tools) deriving from him or prescribed by him or that have to be obtained from a prescribed supplier, also including the (im)movable property on which he has the work implemented;
  - c. non or late delivery of the matters listed under b.;
  - d. him or activities or deliveries conducted by third parties by his order;
  - e. damage to and loss of materials, parts, property, or tools of Hoeflon from the moment that they have been introduced during the time that they remain under the supervision of client outside normal working hours.
- 8.6. If it turns out after the adoption of the agreement that matters coming from the work (such as materials and parts) are contaminated, the client is liable for the consequences resulting therefrom for the implementation of the work.
- 8.7. Modifications to the agreement or the conditions for implementation will be established in writing. The lack of a written assignment leaves unaffected the claims of Hoeflon and of the client to the setting off of additional and reduced work. In the absence of a written order, the burden of proof for the modification lies with the party making the claim.
- 8.8. The client is authorised at all times to cancel the agreement entirely or in part, in which case he will have to pay the following price, with due regard for what follows:
  - a. in case of the delivery of a product, Hoeflon is entitled in case of premature cancellation to 25% of the payable invoice amount for the product not taken, without prejudice to demonstrable additional

damage and the setting off with what may have already been paid in advance;

- b. upon contracting work, Hoeflon is entitled in such case to the contract amount, increased by the costs that they have had to incur as a result of non-completion, and minus the savings that flow for them from the cancellation;
- c. in case of post-calculation, the price owed by the client is calculated based on the costs incurred, the labour conducted, and the profit that Hoeflon would have made on the entire work;
- d. Hoeflon sends the client a specified final invoice of what the client owes as a result of the cancellation.

**8.9.** The work is deemed delivered:

- a. either when Hoeflon has announced to the client that the work is completed, and he has approved the work or when the packing slip and/or the transport document issued by Hoeflon has been received and/or signed;
- b. or when no more than 8 days have elapsed after Hoeflon has announced in writing and by way of registered mail to the client that the work is completed, and his client has failed to approve the work within this term or to accept it by not confirming in writing by way of registered mail to Hoeflon.

**8.10** Small defects that can be restored within the warranty term will not constitute grounds for the withholding of approval, receipt, or acceptance, on condition they do not oppose the possible commissioning of the work;

**8.11** As a result of the delivery, the full risk for the work is transferred from Hoeflon to the client.

#### **IX. Intellectual property**

**9.1.** Hoeflon reserves itself as its own property and possession all rights with regard to products of the mind that are applicable to products they deliver, use, or have used in the context of the implementation of the agreements with client or products developed by them.

**9.2.** It is expressly prohibited to client to multiply, copy for himself or for third parties and to disclose or exploit those products and services of Hoeflon, also including, though not limited to, (computer) programs, work methods, technique, advice, know-how, and other products of the mind, whether or not through the deployment of third parties.

#### **X. Force majeure**

**10.1.** Force majeure on the part of Hoeflon can be said to pertain in any case if Hoeflon after conclusion of the agreement is prevented from complying with their obligations from this agreement or with the preparation thereof as the result of international conflicts in or around the country of the client, (civil) war, threat of war, rioting, terror (attacks), upheaval, work strikes, company occupation, exclusion, fire, environmental and water damage, flooding, government measures, extreme weather conditions, disruption of the supply of power and company resources, malperformance by third parties that Hoeflon is not responsible for, unforeseeable defects on means of transport, telecom, internet, soft or hardware, and furthermore arisen as a result of all other causes outside the fault or the sphere of risk of Hoeflon.

**10.2.** If Hoeflon cannot, cannot timely, or cannot properly comply with their obligations from the agreement as a result of the causes mentioned in 10.1., that cannot be attributed to them, those obligations are suspended until the moment that Hoeflon is able still to comply in the established manner, without Hoeflon falling into default with regard to compliance with their

obligations and without their risking being subjected to the compensation of damages.

**10.3.** Client has the right in case the situation as intended in 10.2. has occurred for 30 consecutive days, to subsequently cancel the agreement entirely or in part and with immediate effect.

#### **XI. Invoice amount**

**11.1** The sales price of a product, matter, or service to be delivered by Hoeflon always is exclusive of sales tax. For the implementation of an agreement, the client owes the established fee, increased by sales tax, freight charges, and costs of clearance.

**11.2** The fee on which the invoice amount is based does not depend on the outcome of the assignment granted, but is calculated with due regard for the customary (hourly) rates of Hoeflon and is due to the proportion activities have been conducted by Hoeflon for the benefit of client.

**11.3** Costs of additions and/or modifications to the assignment are always borne by client.

**11.4** Activities conducted can, if the implementation of the agreement stretches out over a period longer than one month, be billed intermediately.

**11.5** Hoeflon has the right before the start of the activities and intermediately to suspend the implementation of the activities until the moment that client pays a reasonably and fairly determined advance of a maximum of 50% for the activities to be conducted to Hoeflon, or has lodged security to such effect.

**11.6** Products, matters, or documents provided by the client to Hoeflon for processing can in case of default that has become effective can always be retained by Hoeflon with a written appeal to retention until the payable claim(s) of Hoeflon have been settled in full.

#### **XII. Payment**

**12.1.** Barring arrangements to a different effect that are to be demonstrated by the client, the payment of invoices of Hoeflon must occur within 14 days after invoice date. The client does not have the right to apply discounts, the setting off of debts, or compensation, barring the written approval obtained beforehand from Hoeflon.

**12.2.** In case of the overrunning of this term, the client falls legally into default and a delay interest of 1% per month is due. A part of a month is counted as an entire month.

**12.3.** Only payment by transfer to the bank account registered to the name of Hoeflon kept at the banking institution chosen by Hoeflon in the Netherlands, or the payment in cash against a proper proof of settlement lead to the discharge of the client.

**12.4.** If Hoeflon takes collection measures against the client who is in default and fails to comply after summation as well, then the costs incumbent upon that claim - with a minimum of 15% of the outstanding invoices and furthermore in conformity with the legal standards - fall to the charge of the client. If the extrajudicial costs effectively incurred are higher than flows from the preceding, the costs effectively incurred, if Hoeflon so desires, are due.

**12.5.** All claims of Hoeflon on the client are instantly exigible if:

- a payment term is exceeded;
- a bankruptcy application has been filed against client, he has gone bankrupt or has applied for suspension of payments or files a request for legal debt restructuring respectively;
- an attachment is levied on matters or claims of client;
- the client (legal person) is dissolved or liquidated or disposes of his stakes in the own enterprise without the prior consent of Hoeflon;

- the client (natural person) is placed under forced administration, falls into legal debt restructuring, loses the free disposal of his assets, or passes away.

**12.6.** In case of an assignment jointly granted by multiple (legal) persons, clients, to the extent the delivery or activities were conducted for the benefit of joint clients, are severally and jointly liable for the full payment of the invoice amount.

### **XIII. Complaint**

**13.1.** A complaint with regard to the activities conducted or the invoice amount must be communicated within 30 days after the implementation of the activities that the client complains about, or within 30 days after discovery of the defect, if the client proves that he could not reasonably have discovered the defect before during receipt of delivery, to Hoeflon. Complaints received later on are no longer eligible to be taken under advisement.

**13.2.** The proof of the legitimacy of the complaint lies with client and must occur in writing to the satisfaction of Hoeflon.

**13.3.** Any right to file complaint lapses if:

- a. the matters were transported, treated, used, processed, or stored improperly, inexpertly. or in violation of the instructions given by or on behalf of Hoeflon;
- b. the matters were worked or processed by or on behalf of the client himself;
- c. the client does not, does not properly, or does not timely comply with any obligation flowing for him from the underlying agreement vis-a-vis Hoeflon.

**13.4** In case a timely, and in the opinion of Hoeflon legitimate, complaint is made by the client in the matter of a quality deviation with respect to the established assignment or standard, Hoeflon will exert itself to restore this at the shortest possible notice. The client is obligated to keep the matter with regard to which the complaint was made for a reasonable term, though in any event for 20 work days, available for Hoeflon and observe all care that may reasonably be demanded of him.

**13.4.** If the quality deviation from the established standard is of a minor nature with respect to the total of the matters delivered on the delivery date, no replacement will occur, while Hoeflon will exclusively be obliged to refund the demonstrable reduced value.

**13.5.** The client loses all rights and authorisations that fell to him on grounds of defectiveness if he has not filed complaint within the terms stated above and/or has not given Hoeflon the opportunity in writing to restore the defects within a reasonable term. After expiry of the terms indicated above what was delivered counts as irrevocably and unconditionally accepted by the client.

**13.6.** Complaints as intended in 13.1. do not suspend the payment obligation of client.

**13.7.** In case of a timely and legitimately filed complaint, Hoeflon has the choice between adjustment of the compensation billed, the improvement or carrying out anew free of charges of the rejected activities, or not to carry out the assignment (anymore) entirely or in part against a refund in proportion of the invoice already paid by the client.

### **XIV. Liability**

**14.1.** If an error is made because the client has provided Hoeflon with incorrect or incomplete information, or he has not (timely) provided the (necessary) information, Hoeflon is never liable for the damage that has arisen through or as a result of this and Hoeflon does not accept any liability.

**14.2.** The liability of Hoeflon in connection with any possible shortcomings in the matter of matters or products delivered by them and/or of services provided is limited to the amount of the purchase sum of the delivered matters or products or the value of the service delivered, as evinced by the agreement that regards the delivery or provision of services. The liability of Hoeflon is always limited to the amount that they receive in the matter from their business liability insurer after establishment of liability. If and to the extent for whatever reason no disbursement were to occur pursuant to said insurance, any liability of Hoeflon is further excluded.

**14.3.** Hoeflon will, unless in the event of wilful intent or deliberate recklessness, never be liable for a defect to a delivered matter or product or an error in the additional provision of services that is the result of any defect in or manner of treatment of a raw material delivered to them by a third party or on a ready product or semi-manufactured product delivered to them.

**14.4.** Hoeflon does not accept any liability in the context of deliveries or the provision of services to the client for indirect damage, such as, though not limited to: business, consequential, or immobilisation damage, waiting times and loss of income and profits, loss of customers, environmental damage, damage to name and/or goodwill, that the client will incur as a result of the fact that the delivered matters manifest or have a defect and/or that the provision of services was not conducted correctly, unless the client demonstrates that wilful intent or deliberate recklessness pertains on the part of Hoeflon or that he proves that Hoeflon was aware of the defect and the client is able to specify and prove the amount of his damage.

**14.5.** Any claim towards Hoeflon on such account, except those recognized in writing by or on behalf of Hoeflon, expires and lapses in derogation to the legal limitation periods through the simple expiry of 12 months after the arising of the claim.

**14.6.** The employees of Hoeflon or ancillary persons deployed by Hoeflon for the implementation of the agreement can appeal vis-a-vis the client to all means of defence to be derived from the agreement, as if they were a party to that agreement themselves.

**14.7.** The client will indemnify Hoeflon, their employees and the ancillary persons deployed by them completely for any form of liability in connection with the implementation of the agreement. In connection with the indemnification obligation, the buyer is bound, e.g., to refund the reasonable costs of defence against third-party claims.

**14.8.** Upon the deployment of this parties by Hoeflon, Hoeflon will always observe due diligence. Hoeflon is not liable for any possible shortcomings of these third parties.

**14.9.** The exclusion of liability also applies in case of force majeure as intended in art. X.

**14.10.** The exclusion of liability does not apply to wilful intent or gross fault on the part of Hoeflon and/or their subordinates. The burden of proof for this lies with the client.

**14.11.** Client safeguards Hoeflon against all claims of third parties that directly or indirectly, through means or immediately, are related to the implementation of an agreement.

### **XV. Warranty**

**15.1.** Within the boundaries of the following provisions, Hoeflon commits itself to restore defects that at the time of delivery were present already but only became manifest after the delivery free of charges.

**15.2.** This obligation only encompasses defects that at the time of delivery and correct commissioning were not reasonably perceivable and which become manifest in case of the proper manner of using the work. It does not comprise defects that are the result of insufficient maintenance by the client,

modifications or repairs not carried out by or on behalf of Hoeflon, or normal wear or defects for which the client is liable.

**15.3.** To products newly delivered by Hoeflon, a warranty of 12 months after receipt, assembly and/or delivery applies. To activities conducted on products, a 3-month warranty applies from the moment that the activities have been conducted on the relevant product.

**15.4.** In order to be able to appeal to the warranty, the client must:

- a. render plausible that the relevant defects can be attributed to Hoeflon;
- b. accordingly inform Hoeflon within the established 30-day term after discovery of the defects that were identified in writing by way of registered mail;
- c. render all assistance in order to enable Hoeflon to restore the defects within a reasonable term.

**15.5.** The warranty as intended in the preceding sections lapses if:

- a. defects to the system were not reported as soon as possible after they were discovered or could reasonably have been discovered in writing to Hoeflon;
- b. defects were caused by an error, inexpert use, or negligence of the client who gave the order or his successor in title, or by external causes;
- c. the defect is not the result of the work or the assignment;
- d. during the warranty term without the written permission of or on behalf of Hoeflon an order was given to a third party of any nature whatsoever to take measures on the system, or in case such measures have been taken by the client himself, under the proviso that the warranty does not lapse if this, considering the nature and scope of the measures taken, is not justified;
- e. no periodic maintenance is conducted on the product requiring maintenance during the warranty period;
- f. the has not (fully) complied with all his payment obligations towards Hoeflon.

**15.6.** The defective parts replaced by Hoeflon pursuant to the warranty obligation become their property.

## **XVI. Applicable law and choice of court**

**16.1.** To all agreements between Hoeflon and client, Netherlands legislation is exclusively applicable.

**16.2.** The Vienna Convention regarding international purchase agreements regarding movable goods (U.N. Convention of Vienna 11 April 1980) will not be applicable to the agreements concluded between Hoeflon and the client.

**16.3.** Any dispute flowing from the agreement concluded between Hoeflon and the client or provision of services, also including the collection of a claim, can only be subjected to the judgment of the competent court of law of the district of Gelderland in Arnhem, such with the exception of those disputes that legally fall under the competence of the injunctions court 'Kantonrechter'.

**16.4.** In case of any possible difference in interpretation between a provision of the Dutch version of these conditions and the translation thereof in a different language, the Dutch version is exclusively decisive and binding.

These conditions were registered on 18 March 2022 with the registrar of the court of Gelderland in Arnhem under number 9/2022