

A GENERAL**1. Definitions**

In these terms and conditions, the following terms shall have the following meanings:

- the work: the work to be performed and/or the delivery/deliveries to be made;
- Dywidag: Dywidag-Systems International B.V., a private limited company with its registered office in Zaltbommel, the Netherlands;
- the Client: any natural or legal person to whom Dywidag sends an offer or with whom Dywidag concludes an agreement for the delivery of goods or for the performance of the work.

2. Applicability

- 2.1. These terms and conditions apply to all verbal and written offers and all agreements, activities and deliveries of Dywidag, unless explicitly agreed otherwise in writing.
- 2.2. The applicability of any general terms and conditions of the Client is hereby expressly rejected.
- 2.3. The Client accepts these terms and conditions by accepting an offer made by Dywidag or by the mere fact of granting an assignment to Dywidag or ordering goods from Dywidag.
- 2.4. Any deviations from these terms and conditions must be in writing. Such deviations only apply to the cases specified in the relevant written agreement.

3. Formation

- 3.1. Descriptions, technical specifications, designs, calculations, drawings and illustrations in catalogues and brochures, as well as offers to Clients are for information purposes only and do not constitute an offer by Dywidag as referred to in Section 6:217(1) of the Dutch Civil Code.
- 3.2. An acceptance of the document as referred to in Article 3.1, assignment or order placed, is deemed to constitute an offer by the Client. Dywidag will not be bound until it dispatches its order confirmation. This offer cannot be revoked by the Client during a period of fifteen calendar days. If the Client has not made its objections known in writing within ten days after dispatch of Dywidag's order confirmation, Dywidag's order confirmation is deemed to accurately and fully reflect the agreement.
- 3.3. Drawings, technical specifications, designs and calculations form part of the agreement if and insofar as reference is made thereto in the agreement. If the drawing deviates from the technical description, the latter will prevail.
- 3.4. Drawings, technical specifications, designs and calculations made by Dywidag or on its behalf remain the property of Dywidag. If no assignment is granted by the Client, these documents must be returned to Dywidag postage paid, following a request to that effect by Dywidag.
- 3.5. If the Client does not grant the assignment to Dywidag, the Client is obliged to reimburse Dywidag for all costs incurred in connection with the submission of the offer.

4. Prices

- 4.1. All prices quoted by Dywidag are 'ex works', exclusive of VAT, rust protection, packaging and dispatch costs and/or other taxes, charges or duties imposed on the goods as such, unless explicitly stated otherwise on the order confirmation.
- 4.2. Unless otherwise agreed in writing, Dywidag's prices do not include any taxes, contributions, levies or other legal charges in connection with the production, storage, disposal, (the) transport, use or delivery of the materials sold or the work performed.
- 4.3. Changes in quoted prices, without prior notice and also after dispatch of the order confirmation, are expressly reserved; Dywidag is for example entitled to pass on to the Client any increases in rates, duties, charges, labour costs, material costs, levies and taxes, as well as any changes in exchange rates, which increase Dywidag's costs.
- 4.4. Dywidag reserves the right to correct obvious mistakes or errors in the quotation.
- 4.5. Any claim by the Client to a discount requires a written agreement.
- 4.6. If the Client is in arrears of payment of more than € 1,500,-, Dywidag may (as yet) refuse to process outstanding orders or new orders and/or terminate or dissolve the relevant agreements with immediate effect. All (other) claims from Dywidag against the Client are in that case immediately due and payable and the Client will be in default of all the obligations towards Dywidag without any prior statement by Dywidag.

B CONTRACTING WORK**5. Contract price**

- 5.1. The contract price stated in the offer and/or order confirmation is exclusive of VAT.
- 5.2. If the standards and regulations applicable to the work are changed after the order confirmation has been dispatched, Dywidag is entitled to include the related price changes in the contract price.
- 5.3. Unless explicitly agreed otherwise, Dywidag is entitled to include in the contract price any increases in wages, rents and freight rates and the prices of building materials and supplies, as well as any increases in rates, duties, levies and taxes, and any changes in exchange rates which increase Dywidag's costs, after the order confirmation has been dispatched.

6. Extra or less work

- 6.1. Settlement of extra or less work takes place:
 - in the event of a written amendment to the assignment, inter alia as a result of deviations in the amounts of the provisional sums and deductible quantities;
 - in case of instructions by or on behalf of the government or public utility companies as a result of changed legal regulations after the order confirmation has been dispatched.
 - in the cases referred to in Article 10.1 of these terms and conditions.
- 6.2. If the total of the lesser work exceeds the total of the extra work, Dywidag is entitled to an amount equal to 20% of the difference between those totals.

7. Obligations of the Client

- 7.1. The Client ensures, in a timely manner, that Dywidag has at his disposal:
 - the data and approvals (such as permits, exemptions and orders) required for the organisation of the work, if necessary on the instructions of Dywidag;
 - the building, the site on which, or the water in which, the work must be performed;
 - adequate facilities for the supply, lockable storage and/or removal of building materials, supplies and tools;
 - connection facilities for electric machinery, lighting, heating, gas, compressed air, water and other energy required for the performance of the work;
 - drawings of the location of cables, tubes and pipes;
 - workshops that are accessible for assembly, inserting, pre-tensioning and injecting;
 - lunch location and parking space;
 - feed-through holes in formwork.
- 7.2. The Client provides Dywidag with the following, free of charge:
 - electricity and gas;

- water;
- air;
- horizontal and vertical transport on the construction site;
- safety devices required by law;
- Telephone and photocopying equipment;
- winter facilities;
- support systems;
- recesses for tensioning

The finishing of stressing holes and the verification during and after the pouring of the concrete is also at the expense of the Client.

- 7.3. The Client guarantees the correctness and completeness of all materials, data, information, procedures and instructions provided to Dywidag.
- 7.4. The Client is obliged to ensure that work and/or deliveries to be carried out by third parties, not forming part of Dywidag's work, are carried out in such a (timely) manner that the performance of the work can take place undisturbed.
- 7.5. If commencement or the progress of the work is delayed by factors for which the Client is responsible, the ensuing damage and costs incurred by Dywidag must be paid by the Client.

8. Building materials

- 8.1. The Client has the right to inspect the building materials and supplies and to have third parties inspect the materials. The associated costs are for the Client's account, except in the event of rejection. Building materials and supplies provided by the Client are deemed to be approved.
- 8.2. The building materials and supplies originating from the work of which the Client has stated that it wishes to keep them, must be removed from the work site by the Client.
- 8.3. The Client bears the risk of loss, theft and/or damage with regard to the provided building materials and supplies as from the moment they have been delivered to the work site.

9. Completion and maintenance period

- 9.1. The work is deemed to have been completed 30 days after Dywidag has informed the Client in writing or orally that the work has been completed and the Client has failed to inspect the work within that period, or at an earlier point in time if the work was put into use or approved by the Client before that time.
- 9.2. Minor defects that can be properly remedied within the period referred to below in paragraph 4 do not constitute a reason for withholding approval and therefore do not prevent completion.
- 9.3. If the Client withholds approval of the work, the Client must inform Dywidag thereof in writing, stating the exact reasons, and the Client must give Dywidag the opportunity to repair or redeliver the work.
- 9.4. The Client is, on penalty of forfeiture of rights, obliged to notify Dywidag in writing of the minor defects referred to in paragraph 2 within 30 days after completion, stating the exact nature and basis of the complaint/complaints.
- 9.5. As far as any defects are concerned that the Client could not reasonably have discovered prior to completion, the Client is obliged, on penalty of forfeiture of rights, to inform Dywidag in writing, stating the exact nature and basis of the complaint/complaints within 14 days after the defect was discovered or should have been discovered, but not later than twelve months after completion.
- 9.6. The Client indemnifies Dywidag against all claims from third parties in connection with damage to non-completed parts of the work, which is caused by the use of the completed part of the work by the Client.

10. Suspension and termination before completion of the work

- 10.1. If the Client suspends the performance of the work, the Client must inform Dywidag thereof in writing, stating the grounds.
- 10.2. In the event of suspension, Dywidag is entitled to charge for the provisions it has to make as a result as extra work.
- 10.3. In the event of suspension, Dywidag is entitled to a proportional payment for the part of the work performed, increased by all costs reasonably incurred and to be incurred, arising from obligations that Dywidag already entered into with a view to the further fulfilment of the agreement, calculated from the moment when the suspension occurred. In doing so, account will be taken of building materials and supplies that have not yet been processed, insofar as these have become the property of the Client.
- 10.4. If the execution of the work is suspended for more than two months, Dywidag is entitled to terminate the agreement. In such case, the Client is obliged to pay the contract price, minus the savings resulting for Dywidag from the (premature) termination of the agreement and increased by the damage suffered by Dywidag as a result.

11. Exclusion of the Dutch Quality Assurance Act for Construction

The (possible) applicability of Section 7:754(2), Section 7:757a of the Dutch Civil Code and Section 7:758(4) of the Dutch Civil Code will be excluded after the entry into force of these provisions.

C PURCHASE**12. Delivery of ordered goods**

- 12.1. The delivery of the ordered goods takes place ex works from Dywidag's warehouse or a location to be designated by Dywidag by making these goods available to the Client. From the moment of delivery, the goods are at the risk of the Client.
- 12.2. Minor deviations of the delivered goods from the descriptions and illustrations in the catalogues, brochures and offers issued, that remain within the usual tolerances or which are acceptable according to the applicable regulations and standards, or which concern nuances in the displayed colour of the delivered goods, do not result in a breach on the part of Dywidag. Moreover, such deviations will never give the Client the right to invalidate the agreement on any grounds whatsoever.
- 12.3. The Client grants Dywidag permission in advance to deliver the goods ordered by the Client in parts. Each partial delivery can be invoiced separately. The Client undertakes to regard each partial delivery as an independent delivery and therefore to pay each relevant invoice within the specified period, whereby Article 20.2 of these terms and conditions applies to each separate payment obligation.
- 12.4. As soon as the Client has been informed that the goods ordered by the Client are available for the Client, the Client is required to take delivery of the goods within ten days, unless otherwise agreed in writing. If the Client delays the acceptance of the products or fails to fulfil other cooperation obligations, Dywidag is entitled to compensation for any resulting damage and costs. Goods that are not collected in time by the Client will be stored at the expense and risk of the Client. In such a case, Dywidag is entitled to charge the Client storage costs amounting to 0.2% of the order value per day with a maximum of 5% of the total order value. Dywidag reserves its (legal) rights to claim additional damages.

13. Packaging of ordered goods

- 13.1. If, at the discretion of Dywidag, this is necessary or if the Client expressly wishes so, the goods will be delivered packaged; the costs of the packaging will be charged to the Client at a cost price determined by Dywidag.
- 13.2. If packing material has been provided to the Client on loan by Dywidag, for which the Client was or will be charged a deposit, the Client will be credited with an amount equal to the deposit charged to the Client or the charging of a deposit will be waived, if the packing material, in Dywidag's opinion, is reusable and in good condition and has been delivered in time to Dywidag, carriage paid.

14. Dispatch of ordered goods

- 14.1. If the Client so requests, the goods will be dispatched at the expense and risk of the Client to a destination specified by the Client by a carrier to be designated by Dywidag for this purpose, unless the Client has designated a carrier when placing the order.
- 14.2. In the case of urgent shipments, Dywidag may charge the Client for any costs incurred in addition to the actual transport costs.

15. Retention of title

- 15.1. In the event that the goods to be delivered are located in the Netherlands at the time of delivery, notwithstanding the delivery, the ownership of these goods will only pass to the Client as soon as the Client has paid in full to Dywidag all that which is owed to Dywidag under any agreement whatsoever and/or has paid Dywidag in full on account of a claim arising from the non-performance of the agreement by the Client, including interest and costs.
- 15.2. In the event that the goods to be delivered are located outside the Netherlands at the time of delivery, notwithstanding the delivery, the ownership of these goods will only pass to the Client as soon as the Client has paid in full to Dywidag all that which is owed to Dywidag under the relevant purchase agreement, including interest and costs.
- 15.3. If Dywidag invokes its retention of title, it may take back the delivered goods from the Client. The Client must fully cooperate with the repossession, including any disassembly required in this respect. In the context of the aforementioned repossession, the Client hereby gives its unconditional and irrevocable permission to Dywidag or third parties to be designated by Dywidag, to enter all the locations where its properties are located.
- 15.4. As long as Dywidag retains title to an item, the Client is not entitled to sell and/or encumber this item, except within the normal course of the Client's business.
- 15.5. The Client is obliged to have a bank guarantee provided by a universal bank or a bank based on a cooperative model, under the supervision of De Nederlandsche Bank N.V. or comparable foreign central bank within seven days of a written request from Dywidag to this effect, up to the invoice amount outstanding at that time, plus 30% of this amount and interest accrued meanwhile, and/or to cooperate in pledging in accordance with Section 3:237 and 239 of the Dutch Civil Code of goods and claims to be designated by Dywidag as security for the fulfilment of all that the Client owes Dywidag, and/or to transfer all claims based on the resale it has against its customers or third parties.
- 15.6. The risk of loss or damage and any other liability in respect of the delivered goods shall be borne by the Client from the moment of delivery. The Client is obliged to separate and store the goods delivered under retention of title as the recognizable property of Dywidag, to protect them against adverse environmental conditions such as temperature or humidity and to insure the goods against the usual risks such as fire, water damage and theft at the replacement value. The Client must carry out the required maintenance and inspection work in good time and to the necessary extent at its own expense.
- 15.7. In the event that third parties attach the goods delivered under retention of title or wish to create or exercise rights thereto, the Client must inform Dywidag thereof as soon as possible.
- 15.8. If and as soon as Dywidag can no longer invoke its retention of title due to confusion, accession or transformation of the delivered product, the Client must pledge the newly created goods to Dywidag and the Client must pledge to Dywidag (in advance) the claims the Client has acquired or will acquire from the resale of the newly created goods.

16. Complaints

- 16.1. Any complaints concerning defects in goods must be reported in writing to Dywidag at the latest within three days of delivery, stating the exact nature and grounds of the complaint/complaints.
- 16.2. Defects that could not reasonably have been discovered within the abovementioned period must be reported to Dywidag in writing, stating the exact nature and grounds for the complaint/complaints, within three days of the date on which the Client discovered or should reasonably have discovered the defect, but not later than twelve months after delivery of the goods.
- 16.3. Immediately after discovering any defects, the Client must immediately stop treating or processing the goods concerned.
- 16.4. The Client must provide all cooperation required by Dywidag for the investigation of the complaint, e.g. by providing sample material and/or by giving Dywidag the opportunity to investigate on location the quality and/or quantity of the delivered goods or to have this investigation carried out by third parties.
- 16.5. After the expiry of the periods referred to in Articles 16.1 and 16.2, the Client will be deemed to have approved the delivered goods and the Client's right, if any, to invoke that the delivered goods are not in accordance with the agreement will lapse.

17. Return shipments

- 17.1. Acceptance of return shipments will not be regarded by Dywidag as an acknowledgement of defects in the delivered goods or as an acknowledgement of liability.
- 17.2. Goods wrongly returned remain at the Client's disposal and risk; any transport and storage costs will be at the Client's expense.

18. Use of the products

The Client is solely responsible for the use of the purchased products. The Client is hereby fully responsible for ensuring that such use by the Client's personnel is in accordance with all applicable provisions and with the relevant technical instructions and information.

D GENERAL (CONTINUED)

19. Obligation to Complain

Insofar as the delivered goods do not fall under the application of Article 9.4, 9.5 or 16.5, any complaints concerning the delivered goods must be submitted to Dywidag in writing, stating the exact nature and grounds of the complaint/complaints within three days of delivery or, if the defect could not reasonably have been discovered within that period, within fourteen days of the Client discovering the defect or after the Client should reasonably have discovered the defect. After the expiry of the periods referred to, the Client will be deemed to have approved the

delivered goods and the Client's right, if any, to invoke that the delivered goods are not in accordance with the agreement will lapse.

20. Payment

- 20.1. The obligation to pay (instalments of) the contract price, compensation for the work or purchase price of the ordered goods becomes due immediately after the agreement has been concluded, or if otherwise agreed in case of contracting work, after fulfilment of the condition on which payment of the instalment of the contract price was dependent. Payment must be made not later than fifteen calendar days after the date of invoice.
- 20.2. If payment has not been made within the period stated in the previous paragraph, the Client will be in default as of the day on which that period expires and the Client will owe an interest of one percent per month or part of a month until the day of payment in full of the entire invoice amount, or statutory commercial interest as referred to in Section 6:119a of the Dutch Civil Code, if that interest is higher.
- 20.3. Setoff by the Client against a counterclaim is only allowed to the extent that the counterclaim is explicitly acknowledged by Dywidag or has been irrevocably established in law.
- 20.4. Dywidag is at all times entitled to set off any claims of the Client on Dywidag against any claims of Dywidag or any other parties affiliated with the DYWIDAG-Systems International Group against the Client.
- 20.5. All costs, both judicial and extrajudicial, incurred by Dywidag in the collection of amounts due to Dywidag will be borne by the defaulting Client. The extrajudicial costs amount to at least fifteen percent of the invoice amount or the part thereof that has not been paid on time, unless the actual costs are higher.
- 20.6. At Dywidag's first request, the Client must pay in advance a part of the contract sum or price, to be determined by Dywidag, and/or provide security for the payment, at the Client's expense, by establishing a right of pledge on properties, and/or assignment of claims and/or providing a bank guarantee. The choice of the form of the security to be provided is at the discretion of Dywidag.

21. Force majeure

- 21.1. In case of force majeure, Dywidag is entitled to consider the agreement terminated (*ontbonden*) without being obliged to pay any compensation to the Client.
- 21.2. Force majeure exists, inter alia, in case of: war, danger of war, mobilization, riots, strikes, stagnation or difficulties in the production and/or processing by Dywidag or by a company from which Dywidag obtains raw materials or consumables or in case of transport provided by Dywidag or by third parties, government measures, such as seizure, not obtaining a permit, import and export bans, pandemics, fire, storm damage and flooding.

22. Delivery period

- 22.1. Unless explicitly agreed otherwise in writing, all delivery dates from Dywidag are always approximate only and these deadlines are not final (*fataal*). Exceeding the delivery date does not cause Dywidag to be in default within the meaning of Section 6:83 of the Dutch Civil Code. The delivery period commences as soon as the order confirmation has been sent and, moreover, all data, drawings and materials required in Dywidag's opinion have been provided to Dywidag by the Client.
- 22.2. If Dywidag is unable to timely meet an agreed delivery date due to unforeseen or other circumstances beyond Dywidag's control concerning production, suppliers or logistic service providers and/or in case of force majeure, all delivery dates are deemed to have been extended insofar as this is reasonably necessary.

23. Termination of an agreement

- 23.1. Dywidag and the Client may dissolve (*ontbinden*) an agreement with the other party, in whole or in part, with immediate effect and without notice of default being required, by means of a written statement if:
 - a. the other party applies for a (provisional) suspension of payments, if for the other party a (provisional) suspension of payments is applied for or if a (provisional) suspension of payments is granted to the other party;
 - b. the other party files a petition for liquidation, the liquidation of the other party is petitioned for, or if the other party is declared to be in liquidation;
 - c. the business operations of the other party have been terminated.
- 23.2. Except in the cases referred to in Article 23.1, and in the event that the Client proves that Dywidag has materially and imputably failed to fulfil its obligations and performance is permanently impossible or Dywidag is in default, the Client cannot dissolve (*ontbinden*) an agreement with Dywidag.
- 23.3. Dywidag may dissolve (*ontbinden*) an agreement with the Client in the event of any breach on the part of the Client, if performance is permanently or temporarily impossible, or if the Client is in default.
- 23.4. The Client may terminate (*opzeggen*) a building contract or contract for services (*aannemingsovereenkomst of overeenkomst van opdracht*) with Dywidag, subject to a notice period of 14 days.
- 23.5. In the event of termination (*opzegging*), the Client is obliged to (in case of a building contract) pay the contract price (*aanneemsom*), or alternatively (in case of a contract for services) the price agreed for the work, less the savings resulting for Dywidag from the (premature) termination of the agreement and plus any damage suffered by Dywidag as a result.

24. Warranty

- 24.1. Unless otherwise agreed, Dywidag warrants that:
 - in the event of delivery of goods, for a period of twelve months following delivery of the goods to the Client: these goods possess the properties in accordance with their specifications and that they are free of defects in the material and manufacturing defects;
 - in the event of work being performed pursuant to a contract for services, in the performance thereof the care of a good contractor has been exercised and that the services meet the agreed and usual industry standards;
 - in case of contracting work during a period of twelve months after completion: that the work has the properties in accordance with the specifications, whereby the warranty only relates to defects that the Client could not reasonably have discovered prior to completion.
- 24.2. DIN tolerances apply to complaints about DIN standardised goods.
- 24.3. If the Client justifiably invokes any warranty provision of Article 24.1, Dywidag will, at its own discretion and without prejudice to the other provisions of this Article, proceed to (a) replace the defective performance, or (b) repair it, or (c) credit the Client for a proportionate part of the invoice amount of the work or the delivered good with respect to the defect, in which case the original warranty period will only be extended by the period during which the Client did not have the disposal of the defective good or the defective work due to the repair or the replacement.

- 24.4. In the event of repair or replacement of the defective work, this warranty covers the reasonable costs of such repair or replacement, including labour and logistic costs associated with the dispatch to Dywidag and the delivery of the repaired or replaced work. Any costs of disassembly are at the expense and risk of the Client. Goods that have been returned and are found not to be defective, will be returned to the Client at the expense of the Client and Dywidag's costs for investigating the complaint will also be charged to the Client.
- 24.5. If the delivery consists of several (sub)parts, defects in one of the (sub)parts do not entitle to compensation regarding the non-defective parts.
- 24.6. The aforementioned warranty obligation lapses if:
- the Client makes a changes or changes, or a repair or several repairs, to the delivered goods or has changes or repairs made by third parties, without prior written permission from Dywidag;
 - the Client has used the delivered goods for a purpose other than the designated use;
 - the Client (in Dywidag's reasonable opinion) has handled, used or maintained the delivered goods in an improper manner;
 - The Client fails to fulfil its obligations towards Dywidag;
 - the Client is otherwise to blame for the defect in the delivered goods.
- 24.7. The Client acknowledges that the performance and functionality of Dywidag's products depend on factors outside Dywidag's control (e.g. soil conditions, proper and professional transport, storage and installation, environmental conditions such as humidity and temperature, etc.). Therefore, the Client's product warranty claims depend on the Client's full compliance with all installation instructions, training sessions, operating and maintenance instructions, method statements, data sheets or recommendations (whether oral or written) communicated to the Client by Dywidag and/or one of our employees, agents, suppliers or subcontractors. Dywidag is not liable for any specific performance or functionality of the delivered products. Furthermore, any reliance by the Client on a recommendation or technical advice provided by Dywidag is solely for the Client's own expense and risk. Dywidag does not warrant that the results expected by the Client will be achieved or that the products are suitable for the Client's specific purposes in each individual case.
- 24.8. A warranty claim does not give the Client any right to suspend any obligation towards Dywidag.
- 24.9. Dywidag will only issue a warranty and will only bear responsibility for the designs made by Dywidag; therefore Dywidag is not liable for any defects to the structures, built according to the designs of the Client or third parties or if it becomes evident that the information provided by the Client was (partly) incomplete or incorrect.
- 24.10. If in the context of the performance of the agreement by Dywidag parts are outsourced to third parties under stricter conditions than these terms and conditions, Dywidag may enforce, for the outsourced part of the agreement, the same stricter conditions against the Client.
- 25. Liability**
- 25.1. Dywidag's liability based on an attributable shortcoming (*toerekenbare tekortkoming*) in the performance of an agreement, a wrongful act (*onrechtmatige daad*) or on any other grounds (which explicitly includes any warranty obligation on the part of Dywidag) is limited to its warranty obligations as stipulated in Article 24.
- 25.2. Dywidag's total liability in no event exceeds fifty percent (50%) of the total amount actually paid by the Client to Dywidag under an agreement, after deduction of turnover tax and similar taxes and delivery costs.
- 25.3. Liability for indirect damage and consequential damage, such as, but explicitly not limited to loss of profits, business interruption loss, immaterial damage, missed opportunities, damage to reputation and lost turnover are expressly excluded.
- 25.4. Any liability of Dywidag in the event of overdue delivery does not exceed 10% of the value of the delivered goods. If the parties have agreed on a (fixed) compensation for damage due to delay, such as, but not limited to, liquidated damages, such damage is limited to 10% and the Client is not entitled to claim any other compensation in connection with the overdue delivery.
- 25.5. The limitation of liability in this Article applies unless there is intent or deliberate recklessness (*opzet of bewuste roekeloosheid*), and without prejudice to the application of Section 7:762 of the Dutch Civil Code.
- 26. Indemnity**
- 26.1. The Client indemnifies Dywidag against all claims from third parties on the basis of industrial and intellectual property rights in the broadest sense of the word or on other grounds that are caused or related to the manufacture and delivery of a product that, on the instructions of the Client is manufactured by Dywidag or by third parties on behalf of Dywidag.
- 26.2. The Client indemnifies Dywidag against all claims from third parties that are caused or in connection with the work delivered by Dywidag or the goods delivered by Dywidag, including claims based on product liability.
- 27. Intellectual and Industrial Property**
- 27.1. Dywidag reserves the right of ownership and copyright to all illustrations, drawings, calculations and documents of any nature whatsoever which it makes or in the creation of which it participates during the performance of its professional services and to which it has some Intellectual and Industrial property rights.
- 27.2. For these purposes, the "Intellectual and Industrial Property Rights" include all rights recognized by intellectual property law that are of a proprietary or operational nature for any purpose and use, as well as all rights recognized by industrial property law. The Client may not use or operate our Intellectual and Industrial Property Rights without our prior written consent, and the Customer does not acquire any rights to our Intellectual and Industrial Property Rights under any circumstances.
- 28. Data protection**
- 28.1. In accordance with the applicable regulations on data protection, the personal data of the persons who sign, manage and perform the agreement (including these terms and conditions) with Dywidag in the name and on behalf of each of the parties (and any other data in connection with which the receiving party becomes the data controller) will be processed by the other party in order to perform, manage and monitor the agreement and to comply with their legal obligations. The processing of such data is necessary and its basis is (i) to perform and monitor the contractual relationship between the parties and (ii) to comply with the legal obligations.
- 28.2. Personal data will be processed by Dywidag for as long as the agreement is in force, after which Dywidag will retain the personal data for a period of six years, unless a longer period applies by way of exception for legal or contractual reasons.

- 28.3. Personal data will not be disclosed to third parties, except to competent authorities in the exercise of their functions or to third parties when this is necessary for the performance of the work. Since Dywidag's business is a global enterprise, data processing in the management and performance of the agreement may in some cases take place outside the European Union in jurisdictions that do not provide equivalent protection for personal data. In that case, Dywidag will apply the correct warranties and guarantees.
- 28.4. Data subjects may from time to time exercise their rights of access, rectification, erasure, objection, data portability, restriction of processing and not to be subjected to automated individual decision-making and any other right recognized by applicable regulations by writing to the relevant data protection officer, available at compliance@dywidag-systems.com. The data subjects are hereby informed of their right to submit claims and requests regarding their data protection rights to the relevant data protection authority.
- 28.5. Before a party discloses to the other party personal data of a person performing or managing the agreement or of third parties, the disclosing party must inform the data subjects in advance of the content of the previous paragraph and comply with any other mandatory requirements that may apply to the lawful disclosure of the data to the recipient, so that the latter does not have to take additional steps vis-à-vis the data subjects.
- 29. Confidentiality of information**
- 29.1. Unless otherwise stipulated in these terms and conditions or explicitly agreed otherwise in writing, all information Dywidag communicates to the Client, arising from or in connection with the preparation or performance of the agreement, is considered to be confidential ("Confidential Information"). The Client must keep the Confidential Information confidential and may not share it with any third party, except with written permission from Dywidag.
- 29.2. The Client may only share the information with employees, agents, representatives or advisers ("Personnel") who need this information to ensure the proper execution of the work to be carried out by Dywidag or who need it in connection with the performance of their own duties. Disclosure of Confidential Information is on a need-to-know basis and is subject to express confidentiality and non-disclosure undertakings between the Client and the Personnel.
- 29.3. The Client is entitled to disclose the Confidential Information only if: disclosure is required by a court or other governmental, regulatory or supervisory authority; (ii) the Confidential Information has entered the public domain (other than in connection with a violation of this Article by the Client or its Personnel); (iii) the Confidential Information was already lawfully in the possession of the Client before it was provided to the Client by Dywidag, and this information was not obtained directly or indirectly from Dywidag; (iv) the Client lawfully receives the Confidential Information from third parties, without it being subject to a duty of confidentiality; or (v) the communication of the Confidential Information was previously approved in writing by Dywidag.
- 29.4. The confidentiality stipulated in this Article continues to apply between Dywidag and the Client even after the termination of the contractual relationship, regardless of the cause of such termination.
- 30. Installation and Services**
- If, as expressly agreed between Dywidag and the Client in a written agreement, Dywidag is charged with installation, repair or inspection work, the following conditions also apply:
- (a) Unless a lump sum has been agreed, Dywidag charges for labour and materials in accordance with its price list, which may be updated from time to time. Time sheets submitted to the Client form the basis for the calculation of Dywidag's costs, unless the Client rejects the time sheets in writing within 3 days. Any additional work that the Client instructs Dywidag to carry out and that falls outside the agreed scope requires Dywidag's prior written consent.
- (b) The fixed prices are based on the assumption that the site is safe, easily accessible and well prepared, that the preparatory works have been carried out correctly, that the necessary raw materials such as electricity and water supply are immediately available, that the required materials are present and intact so that Dywidag's personnel can concentrate on the agreed scope of work. Extra work that is necessary because the aforementioned conditions are not met will be charged.
- (c) If acceptance of the work by the Client is delayed for reasons beyond Dywidag's control, acceptance is deemed to have taken place fourteen (14) days after substantial completion of the work.
- 31. Advice**
- Advice given by Dywidag, whether or not at the Client's request, are entirely without obligation and never result in Dywidag's liability for any reason whatsoever. The decision to purchase certain goods following an advice given by Dywidag is up to the Client, for which the Client bears the sole responsibility. The Client is therefore bound to indemnify Dywidag against any claims from third parties for any reason whatsoever.
- 32. Reservation of rights**
- The rights and obligations of Dywidag set forth in these general terms and conditions do not limit Dywidag's statutory rights
- 33. Amendments to these terms and conditions**
- Dywidag has the right to make amendments to these terms and conditions. These amendments take effect at the announced time of entry into force, or, if no time of entry into force has been announced, at the time of announcement. Dywidag will send the Client the amended terms and conditions in a timely manner.
- 34. Applicable Law; Disputes**
- 34.1. Dutch law exclusively applies to Dywidag's agreements with the Client. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG, Vienna 11 April 1980) is expressly excluded.
- 34.2. Any disputes arising from and/or related to the agreements referred to in the previous paragraph will be settled exclusively by the competent court in Arnhem.
- 35. Conversion and discrepancies**
- If a clause in these terms and conditions is not legally valid because it is contrary to mandatory law, Dywidag and the Client will be deemed to have agreed on a legally valid clause, the content and scope of which correspond as far as possible with the content and scope of the invalid clause. In case of discrepancies between these terms and conditions in the Dutch language and the English language, the Dutch version shall be binding.