**Article 1**

1.1 DUTCH ELECTRIC is the user of these general terms and conditions and will be referred to as DUTCH ELECTRIC or Contractor. The other party is being referred to as the Client.

1.2. Unless expressly agreed in writing by DUTCH ELECTRIC to otherwise, these general terms and conditions apply to:

* All offers of DUTCH ELECTRIC;
* all agreements/contracts with DUTCH ELECTRIC;
* all renderred services by DUTCH ELECTRIC;
* all tasks performed by DUTCH ELECTRIC;
* all goods deliverred by DUTCH ELECTRIC;
* all what happened as a result of or in connection with the aforementioned offers, agreements, service, work, business and so on, or should occur, including follow-up assignments and/or changed assignments.

1.3. All orders will only be accepted and carried out bij DUTCH ELECTRIC, even if it is the intention of the Client express or implied that the command will be executed by a specific person. The applicability of articles 7:404, 7:407 paragraph 2 and 7:409 paragraph 1 of the Dutch Civil Code are expressly excluded by DUTCH ELECTRIC.

1.4. Additions to and/or amendments of these terms and conditions will only be agreed upon by our prior express written consent.

1.5. All and any terms and conditions used by the Client are hereby expressly rejected and such conditions are not applicable in the relationship with DUTCH ELECTRIC.

**Article 2**

The terms in these terms and conditions are created for the purpose of:

1. DUTCH ELECTRIC including its employees, board members, directors and persons who are otherwise working for DUTCH ELECTRIC;
2. All third parties who are or will be enabled by DUTCH ELECTRIC;
3. Any person for whose act or omission DUTCH ELECTRIC is liable or will be held liable for;
4. All former employees, board members, directors of DUTCH ELECTRIC and all former persons who otherwise were working for DUTCH ELECTRIC
5. Any heirs and successors in title of the above mentioned parties under (a) to (d).

**Article 3**

3.1. All offers are without obligation.

3.2. If the Client provides DUTCH ELECTRIC with data, drawings and the like, DUTCH ELECTRIC may rely on their accuracy and completeness and will base its offer on the same.

3.3. If the Client does not accept DUTCH ELECTRIC’s offer, DUTCH ELECTRIC is entitled to charge the Client for all costs incurred by DUTCH ELECTRIC in making the offer to the Client.

**Article 4**

4.1. Unless agreed upon in writing, DUTCH ELECTRIC retains the copyright and all industrial property rights in the offers made by it and in the designs, pictures, drawings, models (including trial models), software and the like provided by it. These rights will remain the property of DUTCH ELECTRIC irrespective of whether the costs of their production have been charged to the Client. These data may not be copied, used or shown to third parties without DUTCH ELECTRIC’s prior express written consent. The Client will owe DUTCH ELECTRIC an immediately payable penalty of € 30,000 for each breach of this provision. This penalty may be claimed in addition to damages pursuant to the law.

4.2. On DUTCH ELECTRIC’s first demand, the Client must return the data provided to it as referred to in paragraph 1 of this Article within the time limit set by DUTCH ELECTRIC. Upon breach of this provision, the Client will owe DUTCH ELECTRIC an immediately payable penalty of € 1,000 per day. This penalty may be claimed in addition to damages pursuant to the law.

**Article 5**

5.1. The Client cannot derive any rights from advice or information it obtains from DUTCH ELECTRIC if this does not relate to the assignment.

5.2. If the Client provides DUTCH ELECTRIC with data, drawings and the like, DUTCH ELECTRIC may rely on their accuracy and completeness in the performance of the agreement. The Client indemnifies DUTCH ELECTRIC from and against all liability to third parties relating to use of the advice, drawings, calculations, designs, materials, samples, models and the like provided by or on behalf of the Client.

**Article 6**

6.1 The delivery period and/or performance period will be set by DUTCH ELECTRIC on an approximate basis. At this setting DUTCH ELECTRIC will assume that it will be able to perform the assignment under the conditions known to it at that time. The delivery period and/or performance period will only commence once agreement has been reached on all commercial and technical details, all necessary data, final and approved drawings and the like are in DUTCH ELECTRIC’s possession, the agreed payment or instalment has been received *and* the necessary conditions for performance of the assignment have been satisfied.

6.2. In the event of circumstances that differ from those that were known to DUTCH ELECTRIC when it set the delivery period and/or performance period, it may extend the delivery period and/or performance period by such period as it needs to perform the assignment under such circumstances. If the work cannot be incorporated into DUTCH ELECTRIC’s schedule, it will be performed as soon as DUTCH ELECTRIC’s schedule so permits.

6.3. In the event of any contract addition, the delivery period and/or performance period will be extended by such period as DUTCH ELECTRIC needs to (cause to) supply the materials and parts for such work and to perform the contract addition. If the contract addition cannot be incorporated into DUTCH ELECTRIC’s schedule, the work will be performed as soon as DUTCH ELECTRIC’s schedule so permits.

6.4. If DUTCH ELECTRIC suspends its obligations, the delivery period and/or performance period will be extended by the duration of the suspension. If the continuation of the work cannot be incorporated into DUTCH ELECTRIC’s schedule, the work will be performed as soon as DUTCH ELECTRIC’s schedule so permits.

6.5 In the event of inclement weather, the delivery period and/or performance period will be extended by the resulting delay.

6.6. The Client is required to pay all costs incurred by the Con-tractor as a result of delay affecting the delivery period and/or performance period as referred in this article.

6.7. If the delivery period and/or performance period is/are exceeded, this will in no event entitle to damages or termination.

**Article 7**

7.1. Unless explicitly agreed otherwise delivery will be made from factory, ex works, DUTCH ELECTRIC’s place of establishment, in accordance with the Incoterms 2010. The risk attached to the good passes to the Client at the time DUTCH ELECTRIC makes the good available to the Client. Notwithstanding the previous , the Client and Contractor may agree that DUTCH ELECTRIC will arrange for transport. In that event, the risk of storage, loading, transport and unloading will be borne by the Client. The Client may insure itself against these risks.

7.2. In the event of a purchase in which a good is exchanged (*inruil*) and the Client retains the good to be exchanged pending delivery of the new good, the risk attached to the good to be exchanged remains with the Client until it has placed this good in the possession of DUTCH ELECTRIC. If the Client cannot deliver the good to be exchanged in the condition that it was in when the agreement was concluded, DUTCH ELECTRIC may terminate the agreement.

**Article 8**

8.1. DUTCH ELECTRIC may pass on to the Client any increase in costing factors occurring after conclusion of the agreement. The Client will be obliged to pay the price increase as referred to in this article such at the discretion of upon the occurrence of the price increase,

at the same time as payment of the principal sum or on the next agreed payment deadline.

**Article 9**

9.1. DUTCH ELECTRIC is entitled to suspend performance of its obligations if it is temporarily prevented from performing its contractual obligations to the Client due to force majeure. Force majeure is understood to mean, inter alia, the circumstance of failure by third parties such as suppliers, subcon-tractors or transport companies engaged by DUTCH ELECTRIC to perform their obligations or perform them in good time, weather conditions, earthquakes, fire, power failure, loss, theft or destruction of tools or materials, road blocks, strikes or work stoppages and import or trade restrictions.

9.2. In the event of force majeure where performance is or becomes permanently impossible, both parties are entitled to terminate the agreement with immediate effect as regards such part of the obligations that has not yet been performed.

9.3. The parties will not be entitled to compensation for damage suffered or to be suffered as a result of suspension or termination as referred to in this article.

**Article 10**

10.1. The Client must ensure that all licences, exemptions and other administrative decisions necessary to carry out the work are obtained in good time. The Client is required upon DUTCH ELECTRIC’s first demand to send DUTCH ELECTRIC a copy of the documents mentioned above.

10.2 Unless explicity agreed upon otherwise, the price of the work does not include: the costs of cutting, breaking, foundation work, cementing, carpentry, plastering, painting, wallpapering, repair work or other construction work, the costs of connecting gas, water, electricity or other infrastructural facilities, the costs of preventing or limiting damage to any goods present on or near the work site, the costs of removal of materials, building materials or waste or travel and accommodation expenses.

**Article 11**

11.1. Changes to the work will in any event result in contract variations work if the design, specifications or contract documents are changed, the information provided by the Client is not factually accurate, quantities diverge by more than 10% from the estimates.

11.2. Contract additions will be charged on the basis of the pricing factors applicable at the time the contract addition is performed. Contract deductions will be charged on the basis of the pricing factors applicable at the time the agreement was concluded.

11.3. The Client will be obliged to pay the price of the contract addition as referred to in paragraph 1 of this article such at the discretion of the Contractor: when the contract addition arises, at the same time as payment of the principal sum or on the next agreed payment deadline.

11.4. If the sum of the contract deduction exceeds that of the contract addition, in the final settlement DUTCH ELECTRIC may charge the Client 10% of the difference. This provision does not apply to contract deductions that result from a request by DUTCH ELECTRIC.

**Article 12**

12.1. The Client will ensure that DUTCH ELECTRIC can carry out its activities without interruption and at the agreed time and that the requisite facilities are made available to it when carrying out its activities, such as: gas, water and electricity, heating, lockable and dry storage space, facilities required pursuant to the law including Working Conditions Act and Working Conditions Regulations.

12.2 The Client bears the risk of and is liable for any damage connected with loss, theft, burning and damage to goods belonging to DUTCH ELECTRIC, the Client and third parties, such as tools, materials intended for the work or material used in the work, that are located on the work site or at an-other agreed location.

12.3. The Client is obliged to adequately insure itself against the risks referred to in paragraph 2 of this article. In addition, the Client must procure insurance of work-related damage as regards the material to be used. Upon DUTCH ELECTRIC first demand, the Client must send it a copy of the relevant insurance policy/policies and proof of payment of the premium. In the event of any damage, the Client is required to report this to its insurer without delay for further processing and settlement.

12.4. If the Client fails to perform its obligations as described in the previous paragraphs and this results in delayed performance of the activities, the activities will be carried out as soon as the Client performs its obligations as yet and DUTCH ELECTRIC’s schedule so permits. The Client is liable for all damage suffered by DUTCH ELECTRIC as a result of the delay.

**Article 13**

13.1. DUTCH ELECTRIC can enable a third party the command and the execution thereof, where DUTCH ELECTRIC is free in its choice to enable the third parties.

13.2. DUTCH ELECTRIC has the power to, whether or not in its own name or in the name of the Client, with third parties to contract under acceptance or applicability of general conditions by third parties, whether or not those general conditions contain a clause that excludes the liability of the third whole or (very) limited, a jurisdiction clause contained (whether or not arbitration), a choicee of law clause contains a safeguard clause contained in and/or. All terms, including liability, noting exclusive or restrictive conditions, which third parties within the framework of the given command will be able to invoke against DUTCH ELECTRIC may be by DUTCH ELECTRIC envoked to the Client.

13.3. Third parties are instructed at the expense and risk of the client. DUTCH ELECTRIC is not liable or responsible for shortcomings of third parties.

Nor is DUTCH ELECTRIC responsible or liable for the not properly functioning materials used by DUTCH ELECTRIC or by third parties including, but not limited to, software, databases, registers and so on.

**Article 14**

14.1. The work is deemed to be completed when the Client has approved the work, when the work is been taken into commission by the Client, if the Client takes part of the work into commission, that part will be deemed to be completed, if DUTCH ELECTRIC notifies the Client in writing that the work has been completed and the Client does not inform it in writing as to whether or not the work is approved within 14 days of such notification having been made as well in the case if the Client does not approve the work due to minor defects or missing parts that can be rectified or subsequently delivered within 30 days and that do not prevent the work from being taken into commission.

14.2. If the Client does not approve the work, it is required to in-form DUTCH ELECTRIC of this in writing, stating reasons. The Client must provide DUTCH ELECTRIC with the opportunity to complete the work as yet.

14.3. The Client indemnifies DUTCH ELECTRIC from and against any claims by third parties for damage to non-completed parts of the work caused by use of parts of the work that have al-ready been completed.

**Article 15**

15.1. In the event of an attributable failure, DUTCH ELECTRIC is obliged to perform its contractual obligations as yet.

15.2. DUTCH ELECTRIC’s obligation to pay damages, irrespective of the legal basis, is always and explicity limited to damage for which the Contractor is insured under an insurance policy taken out by it or on its behalf, but will never exceed the amount paid out under this insurance in the relevant case.

15.3. If DUTCH ELECTRIC, for any reason whatsoever (also with respect to any guilt by DUTCH ELECTRIC) cannot invoke the limitation in paragraph 2 of this article, the obligation to pay damages will be limited to a maximum of 15% of the total assignment amount (excluding VAT). If the agreement comprises parts or partial deliveries, the obligation to pay damages is limited to a maximum of 15% (excluding VAT) of the assignment amount of that part or that partial delivery.

15.4 DUTCH ELECTRIC will never be responsible for:

a. consequential loss, including business interruption loss, production loss, loss of profit, transport costs and travel and accommodation expenses. The Client may insure itself against this damage if possible;

b. damage to goods in or under its care, custody or control. Such damage includes damage caused as a result of or during the performance of the work to goods on which work is being performed or to goods situated in the vicinity of the work site. The Client may insure itself against such damage if it so desires;

c. damage whether or not caused by the intent or wilful recklessness of agents or non-management employees of DUTCH ELECTRIC. In case DUTCH ELECTRIC is or will be held accountable for the in this paragraph mentioned excluded damage, the responsibility of DUTCH ELECTRIC will be ruled by the general terms conditions including article 15.

15.5. DUTCH ELECTRIC is never liable for damage to material provided by or on behalf of the Client where that damage is the result of improper processing.

15.6. The Client indemnifies DUTCH ELECTRIC from and against all claims by third parties on account of product liability as a result of a defect in a product supplied by the Client to a third party and that consisted, entirely or partially, of products and/or materials supplied by DUTCH ELECTRIC. The Client is obliged to compensate all damage suffered by the Contractor in this respect, including the full costs of defence.

15.7. The Client indemnifies DUTCH ELECTRIC (and the other parties mentioned in article 2) against all claims of third parties.

 15.8. Any right to damages shall be extinguished in any case if the Client not later than six months after he has become known or could have been known with the damage suffered by him has addressed this to DUTCH ELECTRIC in writing.

**Article 16**

16.1. Unless prior express written consent by DUTCH ELECTRIC, DUTCH ELECTRIC warrants the proper execution of the agreed performance for a period of six months after delivery/completion. In the event that a different warranty period is agreed, the other paragraphs of this article are also applicable.

16.2. If the agreed performance was not properly executed, DUTCH ELECTRIC will decide whether to properly execute it as yet or to credit the Client for a proportionate part of the invoice amount. If DUTCH ELECTRIC chooses to properly execute the performance as yet, it will determine the manner and time of execution itself. If the agreed performance consisted (entirely or partially) of the processing of material provided by the Client, the Client must provide new material at its own risk and expense.

16.3. Parts or materials that are repaired or replaced by DUTCH ELECTRIC must be sent or supplied to DUTCH ELECTRIC by the Client.

16.4. The Client bears the expense of all costs of transport or dispatch, costs of disassembly and assembly, travel and accommodation expenses.

16.5. The Client must in all cases offer DUTCH ELECTRIC the opportunity to remedy any defect or to perform the processing again.

16.6. The Client may only (legally valid) invoke (any) warranty or statutory compliance by DUTCH ELECTRIC once the Client has satisfied all its obligations to DUTCH ELECTRIC.

16.7. No warranty is given if the defects result from normal wear and tear, improper use, lack of maintenance or improper maintenance, installation, fitting, modification or repair by the Client or third parties, defects in or unsuitability of goods originating from, or prescribed by the Client, defects in or unsuitability of materials or auxiliary materials used by the Client.

16.8 No warranty is given in respect of goods supplied that were not new at the time of delivery, the inspection and repair of goods of the Client, parts for which a manufacturer’s warranty has been provided.

16.9. The provisions of paragraphs 2 to 7 of this article apply mu-tatis mutandis to any claims by the Client based on breach of contract, non-conformity or on any other basis whatsoev-er.

**Article 17**

17.1. The Client can no longer invoke a defect in performance if it does not make a written complaint to DUTCH ELECTRIC in respect thereof within fourteen days of the date it discovered, or should reasonably have discovered, the defect. On pain of forfeiture of all rights, the Client must submit complaints regarding the amount invoiced to DUTCH ELECTRIC in writing within the payment deadline. If the payment deadline is longer than thirty days, the Client must complain no later than thirty days after the date of the invoice.

**Article 18**

18.1. Upon expiry of the delivery period and/or performance period, the Client is obliged to take delivery of the good or goods forming the subject of the agreement. The Client must lend all cooperation that can be reasonably expected from it to enable DUTCH ELECTRIC to make the delivery. If the Client does not take delivery of goods, such goods will be stored at the risk and expense of the Client. Upon breach of the provisions of this article, the Client will owe DUTCH ELECTRIC a directly demandable penalty of € 250 per day, to a maximum of € 25,000. Besides this penalty also real compensation may be claimed in addition to damages pursuant to the law.

**Article 19**

19.1. Payment will be made at DUTCH ELECTRIC’s place of establishment or to an account to be designated by the Contrac-tor. Unless prior express written consent otherwise has been agreed upon, payment will be made as follows in cash where sale is at the service desk, in the case of payments in instalments, 40% of the total price upon assignment, 50% of the total price after supply of the material or, if delivery of the material is not included in the assignment, after commencement of the work, 10% of the total price upon completion, in all other cases, within thirty days of the date of the invoice.

 19.2. DUTCH ELECTRIC is entitled to payment in advance as well as recognising payment in kind as well as demand proper payment security from the Client, in which case the Client must meet forthwith to such request. In case of a request for payment security it concerns a proper security to an, by DUTCH ELECTRIC, acceptable guaranteed depositform.

19.3. The right of the Client to set off, deduct or suspend amounts it is owed by DUTCH ELECTRIC, save in the event of the DUTCH ELECTRIC’s bankruptcy or if statutory debt rescheduling applies to DUTCH ELECTRIC.

19.4 Irrespective of whether DUTCH ELECTRIC has fully executed the agreed performance, everything that is or will be owed to it by the Client under the agreement is immediately due and payable if the deadline for payment has been exceeded, an application has been made for the Client’s bankruptcy or suspension of payments, attachment is levied (or threatend to be levied) on the Client’s goods or claims, the Client (a company) is dissolved or wound up or the Client (a natural person) requests to be admitted to statutory debt rescheduling, is placed under guardian-ship or dies.

19.5. If payment is not made within the agreed payment deadline, the Client will immediately owe compound interest to DUTCH ELECTRIC. The interest rate is 12% per annum, but is equal to the stat-utory interest rate if the latter rate is higher. When calculat-ing interest, part of a month is regarded as a whole month.

19.6. DUTCH ELECTRIC is authorised to set off its debts to the Client with amounts owed by the Client to companies affiliated with DUTCH ELECTRIC. In addition, DUTCH ELECTRIC is authorised to set off amounts owed to it by the Client with debts to the Client of companies affiliated with DUTCH ELECTRIC. Further, DUTCH ELECTRIC is authorised to set off its debts to the Client with amounts owed to DUTCH ELECTRIC by companies affiliated with the Client. Affiliated companies are understood to mean the companies belonging to the same group, within the meaning of Article 2:24b Dutch Civil Code, and participating interests within the meaning of Article 2:24c Dutch Civil Code.

19.7. If payment is not made within the agreed payment deadline, the Client will owe DUTCH ELECTRIC all extrajudicial costs, with a minimum of € 75. These costs will be calculated on the basis of the following table (principal sum plus interest):

on the first € 3,000 15%

on any additional amount up to € 6,000 10%

on any additional amount up to € 15,000 8%

on any additional amount up to € 60,000 5%

on any additional amount from € 60,000 3%

The extrajudicial costs actually incurred will be owed if these are higher than they would be according to the above calculation.

19.8. If judgment is rendered in favour of DUTCH ELECTRIC in legal proceedings, all costs that it has incurred in relation to these proceedings will be borne by the Client.

**Article 20**

20.1. Irrespective of the agreed payment conditions, upon the first demand of DUTCH ELECTRIC the Client is obliged to provide such security for payment as DUTCH ELECTRIC deDutch Electric sufficient. If the Client does not comply with such demand within the period set, it will immediately be in default. In that event, DUTCH ELECTRIC is entitled to terminate the agreement and to recover its damage from the Client.

20.2. DUTCH ELECTRIC will retain ownership of any goods delivered as long as the Client:

a. fails or will fail in the performance of its obligations un-der this agreement or other agreements;

b. has not paid debts that have arisen due to non-performance of the aforementioned agreements, such as damage, penalties, interest and costs.

20.3 As long the goods delivered are subject to retention of title, the Client may not encumber or alienate the same other than in the ordinary course of its business.

20.4. Once DUTCH ELECTRIC has invoked its retention of title, it may take possession of the goods delivered. The Client will lend its full cooperation to this end.

20.5. DUTCH ELECTRIC has a right of pledge and a right of retention and the right to refuse issuing in respect of all goods that are or will be held by it for any reason whatsoever and for all claims it has or might acquire against the Client in respect of anyone seeking their surrender.

20.6. If, after the goods have been delivered to the Client by DUTCH ELECTRIC in accordance with the agreement, the Client has met its obligations, the retention of title will be revived with regard to such goods if the Client does not meet its ob-ligations under any agreement subsequently concluded.

**Article 21**

If the Client wishes to terminate the agreement without the Con-tractor being in default, and DUTCH ELECTRIC agrees to this, the agreement will be terminated by mutual consent. In that case, DUTCH ELECTRIC is entitled to compensation for all financial loss, such as loss suffered, loss of profit and costs incurred.

**Article 22**

22.1. Dutch law applies expressly excluded is the Vienna Sales Convention (C.I.S.G.), nor do any other international regulations the exclusion of which is permitted.

22.2. Disputes will be heard exclusively by the Dutch civil court with jurisdiction over DUTCH ELECTRIC’s place of establishment, unless this is contrary to mandatory law. DUTCH ELECTRIC may deviate from this rule of jurisdiction and apply the statutory rules of jurisdiction.