

GENERAL ENGINEERING AND CONSTRUCTION CONDITIONS

Clause 1 Definitions

In these general terms and conditions:

Client	- shall mean ENCI B.V., with its registered office in Maastricht;
Contractor	- shall mean the party concluding a contract with the Client;
Agreement	- shall mean the written agreements between Client and Contractor for the supply of goods and/or services by the Contractor to or for the Client;
Project	- shall mean the preparation of the designs needed to carry out the project under the Agreement and then to undertake that project and as part of it to deliver goods and/or carry out construction work and all work needed to carry out the Agreement properly and on time;
Detailed Design	- shall mean the "detailed design" to be supplied by the Contractor, the pertaining drawings and calculations including relevant documents;
Materials	- shall mean the materials, articles, components, installations or parts thereof etc. to be used in the Project;
Equipment	- shall mean tools, cranes, ladders, apparatus, workplaces, canteens, storerooms and changing rooms and other equipment needed to carry out the Project;
Site	- shall mean the part of the Client's property indicated as such in the Agreement where the Project is to be carried out;
Clients Project Manager	- shall mean the Client's agent appointed in accordance with Clause 7 of these conditions.;
Contractor's Project Manager	- shall mean the Contractor's representative appointed in accordance with Clause of these conditions;
H&S Coordinator	- shall mean the Contractor's representative appointed in accordance with Clause 19 of these conditions;
Delivery	- the delivery of goods and services by Contractor to or for Client.

Clause 2 Scope

- a. These terms and conditions apply to all agreements, contracts, orders, invitations to quote, quotations, tenders and acceptances involved in manufacturing the articles required to complete the Project under the Agreement and then to carry out the Project and as part of it the delivery of articles and/or construction work and pertaining work by the Contractor for the Client, and to all contracts, orders, invitations to quote, quotations, tenders and acceptances under additional and/or supplementary agreements.
- b. In the event of conflict the provisions of the Agreement shall

take precedence over the provisions of these terms and conditions.

- c. Application of the Contractor's general terms and conditions is expressly excluded.

Clause 3 Existence of the Agreement

- a. Quotations made by the Contractor shall be considered irrevocable unless the quotation shows expressly in writing that the offer contained therein is without obligation.
- b. Invitations to quote and orders placed by the Client are always without obligation and only imply an invitation to the Contractor to submit a tender. On the other hand, the Client's orders are irrevocable if expressly stated in the order in writing, stating a period within which the order must be accepted.
- c. An Agreement between the Client and Contractor shall come into effect only when the Client has expressly accepted in writing a quotation by the Contractor or, in the event of an irrevocable order by the Client, when the Contractor has returned the order to the Client within the set period signed as correct. If the Contractor does not return an irrevocable order within the set period signed as correct, the order shall be considered to have lapsed. An Agreement nevertheless shall come into effect on the basis of the lapsed order if the Contractor executes the order and the Client accepts the goods and/or services delivered.
- d. The Client shall not be bound by oral orders save where the oral order is confirmed by the Client in writing.

Clause 4 Amendments

- a. Amendments to the Agreement and/or the designs as referred to in Clause 12 of these terms and conditions and departures from these conditions bind the Client only and insofar as the Client has expressly accepted the amendments or departures in writing.
- b. If an amendment to the Agreement requested by the Client would in the opinion of the Contractor affect the agreed price and/or delivery date, the Contractor shall be required to inform the Client immediately - in any event before the requested amendment is included - on penalty of cancellation of the right to request adjustment of the agreed price and/or delivery date.

Clause 5 Transfer of rights and obligations

The Contractor shall be forbidden to transfer rights and obligations arising from the Agreement and/or these terms and conditions to a third party.

Clause 6 Subcontracting

- a. The Contractor can subcontract some parts of the Project provided he obtains the Client's prior express written consent for the choice of these parts and for the subcontractor to be employed. The Contractor shall remain fully responsible to the Client for the execution of these parts.
- b. Subcontractors employed by the Contractor must be in possession of a VCA certificate.
- c. The Contractor shall ensure that any subcontractor's personnel meet the requirements referred to in Clause 19 of these conditions.

Clause 7 Client's Project Manager

Client is entitled to appoint a natural person to serve as Project Manager. The Project Manager supervises the implementation of the Agreement and serves as Client's representative in this matter.

Clause 8 Contractor's Project Manager

- a. Before starting work on the Project the Contractor shall, in consultation with the Client, appoint an individual to act as the Contractor's agent in the capacity of Project Manager under the Agreement. The Project Manager shall be appointed by written power of attorney, a copy of which shall be given immediately to the Client.
- b. The Project Manager shall be on the Site during working hours. If the Project Manager cannot be present on the Site, the Contractor shall, in consultation with the Client, arrange for him to be substituted and/or reached.
- c. In the event referred to in Clause 9, Contractors shall jointly appoint a Project Manager (besides the secretary as referred to in Clause 9b) in accordance with Clause 8a.

Clause 9 More than one Contractor

- a. If two or more Contractors jointly enter into an Agreement with Client, the Contractors are jointly and severally liable for fulfilling the obligations arising from the Agreement and these Conditions.
- b. In the event referred to in Clause 9a, the Contractors (besides the Project Manager as referred to in Clause 8c) shall appoint one Contractor as secretary/contact for the Client, who is entitled to represent all Contractors without any limitation or exception. He shall be appointed by written power of attorney, a copy of which shall be given immediately to the Client.

Clause 10 Contractor's general obligations

- a. In accordance with the requirements of good workmanship, Contractor is responsible for the progress and execution of the Project in accordance with the Agreement within the agreed timetable and budget. The Contractor's obligations in this respect include:
 - preparing and submitting to the Client for written approval the necessary designs in accordance with Clause 12 of these conditions;
 - carrying out the Project on the basis of the designs as referred to in Clause 12 of these conditions;
 - obtaining in good time all licenses, exemptions and/or other consents in accordance with Clause 14 of these conditions;
 - preparing and supervising a Project plan to be approved in writing by the Client in accordance with Clause 16 of these conditions;
 - supervising the agreed budget and, as part of this, giving advice on possible economies;
 - maintaining a quality assurance system in accordance with Clause 16 of these conditions;
 - giving the Client invited and uninvited advice;
 - delivering the Project on time and ready for use in accordance with Clauses 25 and 27 of these conditions.
- b. Contractor is obliged to carry out the work in conformity with the provisions of the Agreement, Client's instructions, the de-

signs, as approved by Client, and these Conditions, without claiming deductions, additional payments or compensation for damages.

- c. The Contractor shall ensure that his work does not obstruct the smooth progress of the Client's and/or third parties' work.

Clause 11 Commencement of the Project

Unless otherwise provided in the Agreement, the Project shall commence on the day following the date on which the Agreement comes into effect.

Clause 12 Approval of designs prepared by the Contractor

- a. The Contractor shall submit the designs prepared by him, including the Detailed Design, to the Client for approval in stages as provided in the Agreement. If the Client rejects one or more designs, the Contractor shall submit revised designs to the Client for approval within 10 working days, which meet the Client's objections. The Contractor shall not start work on the Project before the Client has approved the Detailed Design in writing. Unless otherwise specified in the Agreement, Contractor must make the drawings available to the Client no later than 20 workdays before work is due to commence.
- b. Approval by the Client of the designs prepared by the Contractor shall in no way release the Contractor from his responsibility and liability as referred to in Clause 13 of these conditions.

Clause 13 Responsibility for design

- a. The Contractor shall accept responsibility for the designs prepared by him and the underlying designs on which the Contractor bases his designs, regardless of who has prepared those underlying designs. Accordingly the Contractor shall bear the risk and liability for defects and/or faults in any design. Accordingly, Contractor bears the risk and is liable for deficiencies, correct measurements and/or faults in any design.
- b. Client's involvement in the implementation of the Agreement - for example, by giving approval or by supervising or delegating supervision - in no way diminishes Contractor's responsibility for designs or liability for deficiencies and/or faults in any design

Clause 14 Licenses and legal requirements

- a. The Client shall obtain the licenses, exemptions and/or other consents in good time, only insofar as he has expressly accepted such responsibility in the Agreement. The Contractor shall obtain all other licenses, exemptions and/or consents in good time required for carrying out the Project.
- b. The Contractor shall guarantee that the Project meets the applicable legal rules, such as rules on safety, health and the environment.
- c. The Contractor shall guarantee that his personnel, including subcontractors employed by him subject to Clause 6, comply in the execution of the Agreement with all legal rules, such as rules on safety, health and the environment;
- d. The Contractor shall guarantee that his personnel, including subcontractors employed by him under Clause 6, comply with

all rules and regulations applying in the Client's business, such as rules and regulations on safety, health and the environment. The Client shall give the Contractor a copy of the relevant requirements and regulations at the Contractor's request.

Clause 15 CE marking, European directives, responsibility and application

Contractor is responsible for the correct application of all relevant European directives and the national health and safety legislation to the delivery of goods and services (their components and, in certain cases, their "assembly"). If necessary, they must bear the CE marking. Contractor is deemed to be a "manufacturer", as referred to in the European directives, unless Client decides otherwise. Contractor must provide Client with a signed "declaration of conformity" on demand. One or more declarations of conformity must always be provided to Client, whether requested or not, with the first delivery. Contractor is responsible for all consequences of any failure to apply the above-mentioned European and national legislation correctly.

Clause 16 Project plan

- a. At the latest 20 working days before commencement of the Project, the Contractor shall submit a Project plan to the Client for approval. The Contractor shall not start work on the Project before the Client has approved the Project plan in writing. If the Client rejects the Project plan, the Contractor shall submit a revised Project plan to the Client for approval within 10 working days, which meets the Client's objections. Approval of the Project plan shall not release the Contractor in any way from his obligations under the Agreement and/or these conditions.
- b. The Project plan shall in any event consist of the following parts:
 - a description of the way and the order in which the Contractor intends to do the jobs required to carry out the Project;
 - a description of the Materials and Equipment which the Contractor intends to use in carrying out the Project, itemized for each part;
 - a statement of the personnel which the Contractor intends to employ under Clause 20 to carry out the Project, itemized for each part;
 - a list of times at which the Contractor has to have the Materials provided by the Client under the Agreement and/or these conditions. In specifying these times, the Contractor shall allow the Client a reasonable time;
 - a timetable.
- c. The Client shall be entitled to make changes to the Project plan while the Project is in progress.

Clause 17 Quality assurance

- a. The Contractor shall be responsible for the quality assurance of all work carried out by him under the Agreement. For this purpose the Contractor is required to apply a system of quality assurance, which at least meets the requirements as referred to in the Agreement.
- b. At the latest 20 working days before work on the Project

commences, the Contractor shall submit a quality plan to the Client for approval. The Contractor shall not start work on the Project before the Client has approved the quality plan in writing. If the Client rejects the quality plan, the Contractor shall submit a revised quality plan to the Client for approval within 10 working days, which meets the Client's objections. Approval of the quality plan shall not release the Contractor in any way from his obligations under the Agreement and/or these conditions.

- c. The quality plan must contain at least the following:
 - a detailed description of the quality objectives to be attained;
 - the specific allocation of responsibilities and powers in the Contractor's organization at the various stages of the Project;
 - the specific procedures, methods and instructions which are to be followed;
 - a suitable program of trials, tests and research to be carried out by the Contractor;
 - a program for testing any Materials provided by the Client to incorporate them into the Project;
 - a method for handling changes or adjustments in the quality plan while the Project is being carried out;
 - a method for measuring the degree to which the quality objectives are reached;
 - other measures to reach the quality objectives.

Clause 18 Supervision

- a. The Client shall be entitled to supervise the Project, including:
 - attending trials, tests and research as referred to in Clause 17c4;
 - attending activities at any critical phase of the Project.
- b. The Contractor shall be required to give his full co-operation to supervision by the Client. If an arrangement made with the Contractor, whereby the Client is to exercise his power to supervise in accordance with Clause 17a of these conditions, is not adhered to due to the Contractor's actions or if such an arrangement has to be repeated because of disappointing results, the resulting expense shall be paid by the Contractor.
- c. Client is entitled to appoint external supervisors.
- d. If the Client exercises his power to supervise, this shall not affect the Contractor's responsibility and liability under the Agreement and these conditions.

Clause 19 Progress reports and progress conferences

- a. After commencing work on the Project the Contractor shall supply the Client with a progress report at least once a week, describing the position and progress of the Project and all other relevant aspects.
- b. Contractor is responsible for organising a progress meeting at least once each week, at which Client's Project Manager, Contractor's Project Manager and the H&S Coordinator must be present. Contractor must ensure that the progress meetings are minuted and provide Client with a copy of the minutes.
- c. The agenda of the progress meetings must include the minutes of the previous progress meeting, health and safety, the most recent progress report and, in this context, the work plan

- d. At the progress conference the Contractor shall report the results of the trials, tests and research carried out by the Contractor as referred to in Clause 17c4. The Contractor shall also make these results available to the Client. The Client shall be provided with the results of trials, tests and research immediately at his request for inspection.
- e. The findings of the progress conferences shall in no way release the Contractor from his obligations under the Agreement and/or these conditions.

Clause 20 Safety

- a. Contractor must be in possession of a VCA certificate.
 - VCA * (one star):
 - Subcontractor < 35 persons;
 - Contractor (without involvement of subcontractors) < 35 persons.
 - VCA ** (two stars):
 - Subcontractor > 35 persons;
 - Contractor/main contractor > 35 persons.
- b. Contractor is responsible for the working conditions on the work site and for the safety of all persons and property on or in the vicinity of the work site, in accordance with the relevant (legal) regulations, including regulations under the Working Conditions Act.. The Contractor shall hold the Client harmless from claims by third parties including claims by his own and the Client's personnel.
- c. Before the work commences, Contractor, in consultation with Client, must appoint a H&S Coordinator (implementation phase) to be responsible for proper working conditions and safety on the work site. The H&S Coordinator (implementation phase) must be present on the work site during working hours. If the H&S Coordinator (implementation phase) cannot be present on the work site, Contractor, in consultation with Client, must arrange for a deputy to be present.
- d. In the circumstances referred to in Clause 9 a, the Contractors, in consultation with Client, shall jointly appoint a H&S Coordinator.
- e. No later than 10 days before work is due to commence, Contractor must submit a H&S plan for the implementation phase to Client for inspection. Contractor must not commence work before Client has received and inspected the H&S plan for the implementation phase. Should Client have any objections to the H&S plan for the implementation phase, Contractor must amend the H&S plan accordingly and submit a revised H&S plan for the implementation phase to Client within five days.
- f. The H&S plan for the implementation phase must contain at least the following sections (also covering subcontractors' work):
 - a short description of the work to be done;
 - a description of the entire organisation with regard to all aspects of the work that is to be carried out, specifying the responsible persons and their tasks;
 - a project-related risk inventory and evaluation (RI&E), specifying the person responsible for taking action;
 - a description of how - and how often - the personnel will receive instruction (e.g. kick-off meeting, toolbox meetings, etc.);

- first aid facilities;
- a description of the safety Equipment supplied by the Contractor, such as safety helmets, safety shoes, safety glasses, ear protectors, gloves etc.;
- the incident reporting and investigation procedure, with a view to preventing any recurrence.
- g. As often as Client's Project Manager feels that this is necessary, but no less frequently than once each week, Contractor's Project Manager and H&S Coordinator (implementation phase), at least, shall take part in a tour of inspection.
- h. Approval of the H&S plan for the implementation phase and/or the findings of the tours of inspection do not release Contractor in any way from its obligations under the Agreement and/or these Conditions and in particular under Clause 19 a.
- i. Contractor is responsible for keeping its H&S plan for the implementation phase up to date and for maintaining the H&S file, which must be handed over to Client's Project Manager when the work is complete.
- j. Contractor may only commence the work in conformity with the applicable work permit.

Clause 21 Contractor's personnel

- a. To carry out the Project the Contractor shall only employ personnel who meet the requirements as referred to in the Agreement and, failing this, the general requirements of professional competence and expertise. At least 50% of the personnel employed by the Contractor must be in his permanent service; at most 50% of the personnel employed may be hired from third parties.
- b. The Contractor must be aware that persons under 18 years of age may not be admitted to the Client's Site.
- c. Client is entitled to require Contractor's personnel and the personnel of third parties brought in by Contractor in conformity with the terms of Clause 6 of these Conditions to identify themselves satisfactorily (passport or driving licence) before they are admitted to the work site.
- d. The Contractor shall be required to remove incompetent and/or unfit personnel, in the Client's opinion - including personnel of a subcontractor and/or a supplier - from the Project at the Client's first request.
- e. The personnel of third parties must be in possession of at least a valid "Basisveiligheid VCA" (Basic Safety) certificate and, if they are employed in a managerial capacity, a "Veiligheid voor Leidinggevende VCA" (Safety for Managers) or "Veiligheid voor Operationeel leidinggevende VCA" (Safety for Operational Managers) certificate.

Clause 22 Material

- a. The Contractor shall ensure that Materials are new, are of good quality and are also suitable in other respects.
- b. Client is entitled at all times to request a certificate or proof of origin of materials.
- c. The Client shall be entitled at all times to test or have Materials tested for processing. The Contractor shall supply the Client with the Materials to be tested (or samples if the Client agrees) at the agreed time. The Contractor shall co-operate fully in the tests. The Contractor shall be entitled to be present at the tests.

The Contractor shall not use any rejected Materials. If a test planned in consultation with the Contractor cannot be held due to the Contractor's actions or if a test has to be repeated because of rejection, the ensuing cost shall be paid by the Contractor.

- d. If the Client exercises his option to test Materials, this shall not affect the Contractor's responsibilities and liabilities under the Agreement and these conditions.
- e. Contractor is obliged to package items securely for transport before they are delivered.
- f. Client is entitled to return transport and packaging materials at Contractor's expense. Contractor must ensure that the transport and packaging materials are destroyed or processed, unless Client chooses to take responsibility for this.

Clause 23 Site

- a. The Contractor shall keep the Site clean at all times, subject to the Client's approval.
- b. The Contractor shall be required to clear the Site before delivery of the Project and restore it to its original condition. The Client shall be entitled to clear the Site or have it cleaned and returned to its original condition at the Contractor's expense if the Contractor fails to do so within 10 working days following a written warning.
- c. Unless otherwise provided in the Agreement, the Contractor shall provide workplaces, canteens and storerooms and changing rooms for his own account and risk. The Client shall be entitled to stipulate the location of such facilities on the Site.
- d. Only work shall be done on the Site which is needed for execution of the Project.
- e. Contractor is only entitled to access, by means of the designated route, the parts of the Client's site that are described in the detailed design as the work site and can be enclosed as such. The plants, site, buildings and other facilities that have no connection with the work are prohibited territory for the Contractor
- f. The Contractor shall be required to remove from the Site all packing Materials and Equipment used in carrying out the Project as soon as possible, in any event before delivery of the Project. The Client shall be entitled to remove such packing Materials and Equipment at the Contractor's expense if the Contractor fails to do so within 10 working days following a written warning.
- g. The Client shall be entitled at all times to inspect workplaces, canteens, storerooms and changing rooms. The Contractor shall give the Client access to such facilities at the first request.
- h. Where there is more than one Contractor, as referred to in Clause 9 of these conditions, each Contractor shall be severally required to clear the Site, as provided in Clause 23 b and g.

Clause 24 Electricity, water and telephone

- a. To carry out the Project, the Client shall provide electricity, drinking water and a sewerage connection for normal use (i.e. not for the removal of chemical waste etc.) free of charge. The Contractor is aware that the Client cannot be responsible for the permanent supply of these facilities.

- b. The Contractor shall be deemed to be familiar with the voltage and the number of phases.
- c. In the event of wastage, the Client shall be entitled to charge the Contractor the full cost of electricity and drinking water.
- d. The Client shall provide sufficient connection points for electricity and drinking water at a reasonable distance from the Project in the Client's opinion. The Contractor shall be entitled to install or have installed extra connection points at his own expense - according to current regulations - provided he obtains the prior written express approval of the Client. Such connections must be removed before delivery of the Project unless the Client declares expressly in writing that there is no need to do so.
- e. The Client shall not provide any internal or external telephone connections. The Contractor shall be entitled to install or have installed one or more telephone connections at his own expense provided he obtains the Client's prior express written approval. Such telephone connections must be removed before delivery of the Project unless the Client declares expressly in writing that there is no need to do so.

Clause 25 Documentation and drawings

- a. All drawings belonging to the Project must bear the relevant details of measurements, Materials and manner of production, if necessary supported by calculations according to generally accepted standards.
- b. All drawings associated with the work must be provided with a reference, drawing numbers and drawing lists in line with Client's instructions, and must be supplied to Client on white paper and in digital form.
- c. The Contractor shall be required to provide the Client with documentation belonging to the Project prior to or at delivery of the Project. The Client shall be free to use this documentation, including duplication, for use in his company or in a company affiliated with him.

Clause 26 Delivery

Delivery shall be effected at the agreed place of delivery in conformity with the DDP terms of delivery (delivered duty paid to named place of destination) (Incoterms 2000).

Clause 27 Delivery and completion dates

- a. The agreed delivery or completion dates are always binding. The delivery or completion dates in the Agreement can be amended if more work or less work has to be carried out, provided Client gives express prior approval. Failure to deliver or complete on time renders the Contractor, without further notice, in default and liable to a penalty in the amount specified in the Agreement, without prejudice to Client's right to complete compensation for damages in addition to the fine. Should this sum not be specified in the Agreement, the penalty for late delivery or completion shall be 10% of the agreed price.
- b. The Contractor shall report any threatening overrun of a delivery date immediately in writing to the Client, without prejudice to his obligation to deliver at the agreed time.
- c. In case of late delivery or completion, Client has the right to dissolve the agreement in whole or in part, as it chooses, by

means of a statement to this effect, without prejudice to Client's other rights, including its right to compensation for damages. Should Client dissolve the Agreement completely, the already delivered goods will be returned at Contractor's expense and risk and Contractor shall be obliged to return the already paid price for the delivered goods and/or services. Contractor is obliged to accept the returned goods.

- d. The Client shall be entitled to postpone delivery for a maximum of 30 days without thereby being in creditor's default. In the event of force majeure (such as strikes, sit-ins or picketing, whether or not by the Client's employees, failure of machines and installations, late delivery by third parties of raw Materials needed to carry out the Project or shortages of such raw Materials) the Client shall be entitled to postpone delivery for a longer period without thereby being in creditor's default. Client is entitled to postpone delivery or completion without entering into creditor's default. Should Client postpone delivery or completion, Contractor is obliged to keep, secure and preserve the goods that are to be delivered, at Contractor's own expense and risk.

Clause 28 Early commissioning

- a. The Client shall be entitled in consultation with the Contractor to have the Project or a part thereof put into operation before completion, provided this does not jeopardize the progress of the Project.
- b. By putting it into operation early the Project or the part thereof in question shall not be considered to have been delivered.
- c. The Client shall pay for any damage to the Project due to it being put into operation early.
- d. If early commissioning obstructs the progress of the Project, the Contractor shall have the right to charge for additional work. The Contractor shall advise the Client immediately in writing of the possibility of extra costs due to early commissioning.

Clause 29 Acceptance tests and acceptance

- a. The Project or, if the Agreement so provides, each separate part of the Project shall be subject to an acceptance test. The acceptance test shall be held by the Contractor in the presence of the Client and shall determine whether the Project or the part of the Project concerned meets the requirements of the Agreement.
- b. The Contractor shall advise the Client in writing of the date on which the Project or the part of the Project concerned is ready for an acceptance test. The Client shall then specify the time of the acceptance test.
- c. Acceptance shall be by signature of a report in which the Client and Contractor confirm that the Project has been accepted. Minor faults which in the Client's opinion do not prevent the Project being used properly and safely shall not prevent acceptance. The Contractor shall be required to rectify such faults in consultation with the Client. The Client shall be entitled to suspend payment of a reasonably determined part of the agreed price until all faults have been rectified to his satisfaction.

Clause 30 Transfer of title and risk of loss and/or damage

- a. Title and risk of loss and/or damage to the Project shall be transferred to the Client at the time of acceptance. The Contractor shall guarantee that the Client receives full-uncumbered title to the Project.
- b. If the Client supplies Materials and/or information such as raw Materials, accessories, tools, drawings, specifications and software to the Contractor in order to execute the Agreement and/or these conditions, title thereto shall remain with the Client. However, the Contractor shall bear the risk of loss and/or damage from the time that these Materials and/or information are provided to him. Where this has not yet occurred the Contractor shall mark the Materials and/or information as the Client's property and keep them separate from Materials and/or information belonging to him or to third parties. The same applies if Client submits goods to Contractor for repair.
- c. If Materials provided by the Client are processed into a new article, the Client shall receive title to the new article at the time of processing. However, the Contractor shall bear the risk of loss and/or damage to the new article as long as the new article is not under the Client's control.

Clause 31 Maintenance and servicing

- a. If a maintenance or servicing period is specified in the Agreement, this period shall commence on the day following the date on which the Project is accepted.
- b. The Contractor shall be required to rectify faults which come to light in the maintenance or servicing period at his own expense within a period specified by the Client.

Clause 32 Intellectual and industrial property rights

- a. The Contractor shall guarantee that the Project and normal use thereof do not infringe any absolute right of third parties (such as patents, copyrights or trademarks). The Contractor shall indemnify and hold the Client fully harmless from claims by third parties for (alleged) infringement of such rights.
- b. The Client shall have enjoyment free of charge of any of the Contractor's intellectual property rights relating to the Project or parts thereof. For this purpose the Contractor shall grant the Client transferable licenses for an unspecified period.

Clause 33 Quality and guarantee

- a. The Contractor shall guarantee that the Project is in accordance with the requirements of the Agreement.
- b. The Contractor shall guarantee that the Project conforms in every respect to samples and/or models and/or drawings provided by the Contractor and/or Client.
- c. The Contractor shall guarantee that the Client can have disposal of accessories, spare parts and user's instructions belonging to the Project at the time of delivery.
- d. The Contractor shall guarantee that the Project is suitable for the purpose specified to him, which can be deduced from the Agreement or which can be expected considering the nature of the Client's business, and that the Project shall remain suitable for that purpose in normal use for at least 12 months after delivery.

- e. Contractor is obliged to take over subcontractors' guarantees.
- f. The Contractor shall be required to inform the Client for five years after delivery of the Project of any improvement and/or technical developments carried out by him which are fit to be applied to the Project.

Clause 34 Insurance

- a. Without prejudice to his liability under the Agreement or any legal provision, the Contractor shall take out "construction all risks" insurance at his own expense for the period of execution of the Project and the maintenance and servicing period as referred to in Clause 29 to a minimum amount of 130% of the agreed price, with an excess to be debited to the Contractor of the amount specified in the Agreement. Disregarding Articles 249 and 279 of the Commercial Code, insurance shall cover at least:
 - damage and loss due to defective Materials (whether supplied by the Client or not), insufficient expertise, structural faults and design faults;
 - damage and loss of the moveable or immovable goods of the Client or third parties, and any ensuing consequential damage, including damage as a result of fire and/or explosion.

This insurance shall also apply to damage and loss occurring during the maintenance and servicing period whose cause originates at a time before this period commenced. The insured amount for damage and loss of moveable and immovable property, including ensuing consequential damage, of the Client or third party shall be the amount referred to in the Agreement and, failing that, in any event at least f 1 million per event. The insured amounts shall be maintained for the entire period of insurance, regardless of how much has already been paid out.

- b. The Contractor shall be required to take out insurance to the Client's satisfaction to cover his liability under the Agreement and/or these conditions, and to cover his legal liability, including the mutual liability of all the parties concerned in executing the Project.
- c. The insurance cover shall take precedence over the cover of other insurance's, including renunciation of any right of recourse to the insurers of such other insurance. Accordingly the policy shall at least provide that:
 - all the parties concerned in execution of the Project are co-insured, including in particular the Client in respect of his rights and/or interests;
 - various policyholders are regarded in respect of each other as third parties;
 - the Client is involved in any settlement of losses;
 - payment is only made with the Client's prior approval;
 - in the event of bankruptcy or suspension of payment of a claimant, payment is made to the Client if and insofar as the loss is suffered by the Client or another co-insured;
 - the Client is entitled to continue the insurance at his own expense in the event of the Contractor's bankruptcy or suspension of payment.
- d. The Client shall be entitled at all times to inspect the policies of the insurance's taken out by the Contractor. Accordingly the Client shall also be entitled at all times to demand proof that the Contractor has paid the premiums at the agreed time

for the insurance taken out by him. Failing this, the Client shall have the right to pay the premiums himself and to withhold that amount from the agreed price.

Clause 35 Price

- a. Unless otherwise expressly provided in writing in the Agreement, the agreed price shall include the price of the entire Project, excluding VAT but including any other government charges such as import duties and EC taxes, the cost of packing, the cost of transport and furthermore all other expenses connected with execution of the Agreement. If the Contractor uses Materials provided by the Client, he shall pay any transport costs arising.
- b. The agreed price shall be firm unless expressly otherwise provided in writing in the Agreement.

Clause 36 Invoicing and payment

- a. The agreed price, if applicable including VAT, shall be paid within 30 calendar days of acceptance of the Project or, if the Agreement provides, a part of the Project in accordance with Clause 27, and an invoice has been received.
- b. The Client shall be entitled to suspend payment if the Project does not fully comply with the Agreement or the Contractor does not fully comply in other respects with any obligation under the Agreement or these conditions.
- c. The Client shall be entitled to deduct everything owed to him by the Contractor for whatever reason from the price payable to the Contractor. The Client shall have the same right for everything owed by the Contractor for whatever reasons to a company belonging to the same group of companies as the Client.
- d. The Client shall be entitled to make payments in consultation with the Contractor on behalf of the Contractor to subcontractors and/or suppliers if the progress of the Project is jeopardized by the absence of such payments. The Client shall be entitled to deduct his payments to subcontractors and suppliers from the price payable to the Contractor.
- e. Payment and/or deduction by the Client in no way implies renunciation of the right to claim for defects, including the right to compensation.

Clause 37 Bank guarantee

The Client shall be entitled at all times to demand a bank guarantee from the Contractor to ensure that the Agreement is properly executed. The Contractor shall be required to comply immediately with a request to lodge such a bank guarantee. If it is agreed that the Client pay the Contractor an advance payment, the Contractor shall be required prior to payment of the advance to lodge a bank guarantee for the amount of the advance.

Clause 38 Discount

The Client shall be entitled to apply a discount to the agreed price in the event of failure to deliver the work or part thereof on time, without prejudice to his other rights including the right to compensation. Unless otherwise provided in the Agreement, the discount shall be 0.5% of the agreed price for each day or part thereof. The discount shall apply in the event of any late delivery, without notice of default being required.

Clause 39 Additional and decreased work

Additional work shall only be applicable if the Contractor's workload is demonstrably increased by additional wishes of the Client. If the Contractor is of the opinion that additional work is applicable he shall advise the Client in writing, giving reasons, accompanied by a written quotation for the cost of the additional work. The Contractor shall not carry out additional work until he has been given written instructions, specifying the price payable for the additional work.

Clause 40 "Wet Ketenaansprakelijkheid"

- a. If the "Wet Ketenaansprakelijkheid" is applicable, the Contractor shall be required to comply with the Client's current rules.
- b. For employment of a subcontractor under Clause6, the Client shall be entitled to demand securities for the deduction of VAT, wage tax and national insurance premiums and social insurance.

Clause 41 Secrecy

- a. The Contractor shall keep secret the existence, nature and content of the Agreement and other business information relating to the Client and not reveal anything of it without the Client's prior express written consent.
- b. The Contractor shall be forbidden to keep documents or transcripts or copies thereof in any form which he has in his possession in connection with his work for the Client longer than necessary for execution of the Agreement. The Contractor shall be required in any event to return such documents and/or transcripts or copies thereof to the Client immediately following execution of the Agreement without retaining a transcript or copy in any form.
- c. Failure to comply with the requirement of Clause39b shall make the Contractor liable to an immediately payable penalty of the amount referred to in the Agreement or, failing that, 10% of the agreed price for each breach, without prejudice to the Client's other rights, including his right to compensation.
- d. The Contractor shall be required to impose the same obligations as referred to in Clause39a, b, and c on his personnel and on subcontractors employed by him under Clause6 in the execution of the Agreement.

Clause 42 Defects

- a. Without prejudice to the other provisions of these terms and conditions, each failure to comply with an obligation under the Agreement and/or these conditions shall require the Contractor to rectify the defect and/or its consequences at his own expense in a manner acceptable to the Client within a period specified by the Client in writing. If the Contractor fails to do so, the Client shall be entitled to cancel the Agreement in whole or in part at his option and to have the Project completed at the Contractor's expense, without prejudice to his other rights, including his right to compensation.
- b. The Contractor shall hold the Client harmless from claims by third parties for compensation directly or indirectly arising from or connected with the execution of the Project by the Contractor, including failure to comply with any obligation under the Agreement and/or these conditions.

Clause 43 Emergency action

Without prejudice to the Contractor's responsibilities and liability, the Client shall be entitled at all times to take emergency action if business circumstances, safety and/or a legal regulation do not allow any delay. The ensuing costs shall be paid by the Contractor unless this is considered unreasonable under the circumstances.

Clause 44 Premature termination

- a. The Client shall be entitled at his option to suspend execution of the Agreement in whole or in part or to terminate the Agreement in whole or in part with immediate effect by a written declaration in the event of:
 - the Contractor's suspension of payment or bankruptcy or an application therefore;
 - sale or liquidation of the Contractor's business;
 - administration or receivership of the Contractor;
 - death of the Contractor;
 - if the Contractor is a corporate entity or a partnership, liquidation thereof;
 - seizure of a substantial part of the Contractor's business assets or assets intended for execution of the Agreement.
- b. Without prejudice to his other rights the Client shall also be entitled at his option to suspend execution of the Agreement in whole or in part or to terminate the Agreement in whole or in part with immediate effect by a written declaration if the Contractor, his personnel or a subcontractor employed by him under Clause6 offers any inducement to the Client's personnel or third parties employed by the Client to execute the Agreement.

Clause 45 Invalidity of one or more provisions

- a. The invalidity of any provision of the Agreement or these terms and conditions shall not affect the validity of the other provisions.
- b. If and insofar as any provision of the Agreement or these terms and conditions is considered unreasonably onerous, unacceptable or invalid under the circumstances, a provision shall apply between the parties which is acceptable, taking all circumstances into account.

Clause 46 Applicable law and disputes

- a. To all agreements Dutch law shall be applicable with the exception of the United Nations Treaty of 1980 on international purchase agreements for moveable property (CISG).
- b. All disputes arising from or connected with agreements, contracts, orders, invitations to quote, quotations, tenders, execution of work or deliveries to which these terms and conditions are applicable shall be settled exclusively by the Court in The Hague, with the exception of disputes under the authority of the Cantonal Courts.