

TERMS AND CONDITIONS

DutchGiraffe | Digital Creatives
Saturnusstraat 60 - Unit 21
2516 AH Den Haag

November 2014



1 CLAUSE 1 - DEFINITIONS

1.1 The following terms, indicated by a capital letter, will have the following meaning:

Acceptance:	DutchGiraffe's approval of all or part of the Deliverables;
Agreement:	a document drawn up by DutchGiraffe that describes, among other things, what Deliverables will be provided, at what price and within what period.
Client:	The natural person or company that has entered into an Agreement with DutchGiraffe;
Client Materials:	All property, data, information, equipment, software, supplies and materials provided to DutchGiraffe.
Deliverables:	Everything that DutchGiraffe makes and/or undertakes or has made or has undertaken for the benefit of the Client within the context of the Agreement;
DutchGiraffe:	Dutch Giraffe BV., a private limited liability company under the laws of the Netherlands, having its registered office in (2516 AH) Den Haag, at Saturnusstraat 60 - Unit 21, listed in the Commercial Register of the Chamber of Commerce under file number (KvK 27312923) and operating the website www.dutchgiraffe.com .
IP Rights:	All intellectual property rights and related rights, including but not limited to copyrights, database rights, (un)registered design rights, neighboring rights, patent rights, trademark rights, trade name rights and any other intellectual property rights, such as domain names and knowhow, in any part of the world;
Parties:	DutchGiraffe and/or Client;
Products:	The products agreed to be delivered by DutchGiraffe as set out in the Agreement, including but not limited to the creation of digital magazines, websites, apps, Platform WP-magazines.com, Platform Magstream PRO, Platform Smartlynx.nl, hosting and CDN;
Production Materials:	All software code, designs, general know-how, materials and tools proprietary to and developed by DutchGiraffe outside the scope of the Agreement;
Services:	The services agreed to be performed by DutchGiraffe as set out in the Agreement, including but not limited to consulting, design and the creation of content;
Terms and Conditions:	These terms and conditions;

2 CLAUSE 2 - SCOPE AND APPLICABILITY

- 2.1 These Terms and Conditions are applicable to all offers of DutchGiraffe, all Agreements between the Parties and all other legal relationships between the Parties.
- 2.2 These Terms and Conditions stipulate the conditions under which DutchGiraffe will perform Services, and deliver Products to Client. The specific Services to be performed and Products to be delivered as well as the applicable timeframe will be described in the Agreement.
- 2.3 Deviations from and additions to these Terms and Conditions and/or the Agreement are only valid if agreed by Parties in writing. If Parties agree to deviate from these Terms and Conditions and/or to apply additional terms and conditions, such deviations shall only apply to the specific assignment for which they were agreed.
- 2.4 The applicability of the terms or conditions of Client is expressly rejected, unless Parties have agreed otherwise in writing.
- 2.5 Once these Terms and Conditions have been applied to one or more agreements between Parties, Client shall be deemed to have accepted these Terms and Conditions in subsequent agreements.
- 2.6 If any provision of these Terms and Conditions is or becomes void or invalid for any reason whatsoever, the other provisions of these Terms and Conditions will remain in full force and effect. DutchGiraffe will replace the invalid provision with a provision that is valid and of which the legal consequences, having regard to the

content and purpose of these Terms and Conditions, correspond as far as possible with those of the replaced provision.

- 2.7 The relationship between the Parties is that of independent contractors and nothing in these Terms and Conditions will be construed so as to constitute the Parties as partners, joint ventures or co-owners or empower either Party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither Party will hold itself out as entitled to do the same, unless expressly provided otherwise in these Terms and Conditions.

3 CLAUSE 3 - OFFERS AND CONCLUSION OF AGREEMENTS

- 3.1 All offers made by DutchGiraffe shall be valid for the term specified therein. When no term is stated, an offer shall be valid for 30 days. All offers made by DutchGiraffe can be revoked and/or amended by DutchGiraffe. Amendments made by DutchGiraffe, shall be deemed as a new offer by DutchGiraffe.
- 3.2 An agreement is only concluded once the offer and the Terms and Conditions of DutchGiraffe has been accepted by Client and the Agreement has been signed by both DutchGiraffe and the Client.
- 3.3 Client is not permitted to commence performance of the Agreement until the Agreement has been concluded in accordance with this article 3. If the Client nevertheless commences performance of the Agreement, it does so entirely on its own account and its own risk.
- 3.4 DutchGiraffe may at any time propose changes to the nature and/or the scope of the Deliverables to be provided, which proposals Client may not reject without a valid reason. Possible changes, if any, to agreed fees resulting from such changes shall be agreed on in advance in writing.
- 3.5 If parties agree during the performance of the Agreement that the Agreement must be amended and/or supplemented, this may not affect the delivery period, the price and/or the quality of the Deliverables, except insofar as otherwise expressly agreed.

4 CLAUSE 4 - GENERAL PROVISIONS CONCERNING SERVICES AND PRODUCTS

- 4.1 DutchGiraffe will make reasonable efforts to carry out the Services and Products carefully and independently, and to represent Clients interest to the best of its ability. The Agreement between Client and DutchGiraffe shall be on the basis of a best efforts obligation, not a result obligation.
- 4.2 Parties shall determine the technical and functional specifications and requirements of the Services and Products, as well as the intended purpose and delivery date, in consultation with each other. The functional specifications and requirements will, as much as possible, be set out in the offer made by DutchGiraffe which will form the basis of the Agreement. DutchGiraffe shall only provide Services and Products if Client meets all its obligations under the Agreement and these Terms and Conditions.
- 4.3 If Parties have agreed that the Services and Products will be performed in phases, DutchGiraffe will be entitled to postpone the commencement of Services or Products that form part of a particular phase until Client has approved the results of the preceding phase.
- 4.4 The duration of an Agreement is dependent on various factors and circumstances, such as the quality of the data and information provided by Client and the cooperation of Client and relevant third parties. Stated delivery dates are therefore not regarded as strict deadlines, unless the Parties have expressly agreed otherwise in writing.
- 4.5 DutchGiraffe is not obliged to implement instructions and amendments of Client during the performance of the Agreement, unless the Parties have expressly agreed otherwise. If DutchGiraffe implements instructions which result in a change to the scope of the agreed Services and Products, for example through additional work, Client is required to pay the additional costs associated therewith.
- 4.6 In carrying out the Services and Products DutchGiraffe is entitled to engage third parties. These Terms and Conditions apply to the Services and Products provided by such third parties as well.

- 4.7 The Client must notify DutchGiraffe in a timely manner in writing of any changes to the agreed Services and Products. If Client fails to do so, any improper implementation of the changes will be at Client's risk and expense.
- 4.8 Amendments or additions to the agreed Services and Products at the request of Client may only take place with the written consent of DutchGiraffe. DutchGiraffe may require a separate written agreement be concluded in respect thereof.
- 4.9 Client accepts that additions or amendments to the Agreement may influence the agreed or expected time of completion of the Services and Products and the reciprocal responsibilities of DutchGiraffe and Client. The fact that (the demand for) additional work arises during the execution of the Agreement will not entitle Client to cancel or terminate the Agreement.
- 4.10 The Services and Products will be accepted by Client when they are in conformity with the technical and functional specifications and requirements.
- 4.11 Complaints, if any, with respect to the non-conformity of the Services and Products with the technical and functional specifications and requirements, must be communicated by Client to DutchGiraffe in writing, detailing the reasons thereof, as quickly as possible and in any event within 5 working days after the Services and Products have been delivered. DutchGiraffe will make reasonable efforts to restore the errors within a reasonable period, whereby DutchGiraffe is entitled to apply temporary solutions or problem avoiding restrictions.
- 4.12 Parties will then discuss the steps to be taken by DutchGiraffe and/or Client. If Client fails to notify DutchGiraffe of any non-compliance within 5 days, Client will be deemed to have fully accepted the Services and Products. Notwithstanding the foregoing, if the Services and Products has been made public or otherwise has been used for productive or operational purpose by Client, the Services and Products shall be deemed accepted from the moment of first use by Client.

5 CLAUSE 5 - SERVICES

- 5.1 The Services shall be provided by DutchGiraffe according to the specifications included in het Agreement and clause 4 of these Terms and Conditions.
- 5.2 If the Services contains errors Client shall inform DutchGiraffe in writing. DutchGiraffe will make reasonable efforts to restore the errors within a reasonable period, whereby DutchGiraffe is entitled to apply temporary solutions or problem avoiding restrictions.
- 5.3 Client is not permitted to withhold the acceptance of the Services on other grounds than those grounds that are directly related with explicitly agreed specifications between Parties, nor can Client withhold the acceptance of the Services because of the existence of minor errors, that reasonable do not interfere with the use of Services, notwithstanding the obligation of DutchGiraffe tot restore errors.
- 5.4 DutchGiraffe is not obliged to restore errors as mentioned in clause 5.2 and clause 5.3, if these errors are caused by:
- Adjustments, of any kind, that have not been applied by DutchGiraffe;
 - Any use that has not been permitted by the Agreement;
 - Wrongful use of the Services;
- 5.5 DutchGiraffe has the right to demand a written agreement on the functionalities, design and/or the concept before providing Services. Until written agreement has been received DutchGiraffe has the right to suspend the Services.
- 5.6 Unless agreed otherwise DutchGiraffe shall not warrant that the Services function correctly with all software (including web browsers, and/or equipment), or that the Services will function without disruptions, interruptions or other errors.
- 5.7 The warranty obligation expires if:

- Client causes changes or if the Client makes changes to the Services without written permission of DutchGiraffe;
- There have been operating errors or improper use on behalf of the Client;
- There are no DutchGiraffe attributable causes;

6 CLAUSE 6 - PRODUCTS

- 6.1 The Products shall be developed by DutchGiraffe according to the specifications included in the Agreement and clause 4 of these Terms and Conditions.
- 6.2 If the Products contains errors Client shall inform DutchGiraffe. DutchGiraffe will make reasonable efforts to restore the errors within a reasonable period, whereby DutchGiraffe is entitled to apply temporary solutions or problem avoiding restrictions.
- 6.3 Client is not permitted to withhold the acceptance of the Products on other ground than those grounds that are directly related with explicitly agreed specifications between Parties, nor can Client withhold the acceptance of the Products because of the existence of minor errors, that reasonable do not interfere with the use of the Products, notwithstanding the obligation of DutchGiraffe to restore errors.
- 6.4 DutchGiraffe is not obliged to restore errors as mentioned in clause 6.3. and clause 6.4, if these errors are caused by:
- Adjustments of any kind, that have not been applied by DutchGiraffe;
 - Any use of the Products that has not been permitted by the Agreement;
 - Wrongful use of the Products;
- 6.5 DutchGiraffe has the right to demand a written agreement on the functionalities, design and/or the concept of the Products before starting the development of the Products. Until written agreement has been received DutchGiraffe has the right to suspend the development of the Products.
- 6.6 Unless agreed otherwise, DutchGiraffe does not transfer the source code of the Products to the Client, nor does DutchGiraffe transfer technical data to the Client that has been developed during the development of the Products.
- 6.7 Client is responsible for the use of the Products. Client is not permitted to use the Products for acts and/or any behavior that consists a breach of the Agreement, any applicable law or regulation, public order or the use of the Website in any other unlawful manner. Client indemnifies DutchGiraffe for all claims of third parties concerning a breach of clause 6.7.
- 6.8 Unless agreed otherwise DutchGiraffe shall not warrant that the Products function correctly with all software (including web browsers, and/or equipment), or that the website will function without disruptions, interruptions or other errors.
- 6.9 The warranty obligation expires if:
- Client causes changes or if the Client makes changes in the Products without written permission of DutchGiraffe;
 - There have been operating errors or improper use on behalf of the Client;
 - There are no DutchGiraffe attributable causes;
- 6.10 DutchGiraffe is not liable for the non-availability or the reduced availability of the Products due to a power cut, power failure, interferences in the telecommunication or the internet, malfunctions of the hard- and/or software of the Client and all other possible causes beyond the direct power of DutchGiraffe.
- 6.11 DutchGiraffe has the right to – without (fore mentioned) notice – (temporarily) place the Products out of use or limit the use of the Products for maintenance or while DutchGiraffe is adjusting the Products. Client will not be compensated for any loss or damages due to the maintenance or the adjustments.
- 6.12 To the extent in a service level agreement not otherwise has been provided the following applies:
- DutchGiraffe won't provide back-ups to the Client. It is Client's responsibility to make back-ups.

- DutchGiraffe will make reasonable efforts to keep the software up-to-date. For the storage of data DutchGiraffe is dependent of her supplier(s). DutchGiraffe is not obligated to install certain updates or patches if this in her opinion does not contribute to the correct delivery of the Products.
 - DutchGiraffe will make reasonable efforts to make sure that the Client can make use of the Products that are directly or indirectly linked with the network of DutchGiraffe. DutchGiraffe cannot guarantee that the Products are accessible at any given moment.
 - If, in the opinion of DutchGiraffe danger exists for the functioning of the computer systems, the networks and the platforms of DutchGiraffe or third parties and/or the Products provided through the network of DutchGiraffe, in specific by excessive sending of e-mail or other data, inadequate protected systems or activities of viruses, Trojans and comparable software, DutchGiraffe is entitled to take all necessary measures to prevent or avert the danger.
- 6.13 In case of crossing the allowable data traffic and the allowable server space DutchGiraffe is entitled to charge Client without further notice with the extra costs involved.
- 6.14 Client shall act at all times as a careful user whenever making use of the Products as delivered by DutchGiraffe. If Clients use the Products to create a blog or website, Client shall be responsible for maintaining the security of the account and blog, and Client will remain fully responsible for all activities that occur under the account and any other action taken in connection with the blog. Client can not describe or assign keywords to the blog in a misleading or unlawful manner, including in a manner intended to trade the name or reputation of others, and DutchGiraffe may change or remove any description or keywords that is considered to be inappropriate or unlawful, or otherwise likely to cause DutchGiraffe liability. Client must immediately notify DutchGiraffe of any unauthorized use of the Products, the account or any other breach of security. DutchGiraffe will not be liable for any acts or omissions by Client including any damages of any kind incurred as a result of such acts or omissions.
- 6.15 If Client posts material to the Products, post links on the Products, or otherwise make (or allow any third party to make) material available, Client is entirely responsible for the content of, and any harm resulting from, that content. That is the case regardless of whether the Content in question constitutes text, graphics, audio files, or computer software. By making content available, Client represents and warrants that:
- The downloading, copying and use of content will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark or trade secret rights, of any third party;
 - The content does not contain or install any viruses, worms, malware, Trojan horses or other harmful or destructive content;
 - The content is not spam, is not machine- or randomly-generated, and does not contain unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing);
 - The content is not pornographic, does not contain threats or incite violence towards individuals or entities, and does not violate the privacy or publicity rights of any third party;
 - The Products are not getting advertised via unwanted electronic messages such as spam links on newsgroups, email lists, other blogs and websites, and similar unsolicited promotional methods;
 - The Products are not named in a manner that misleads Clients readers into thinking that Client is another person or company.
- 6.16 By submitting content to DutchGiraffe for inclusion on the Products, you grant DutchGiraffe a world-wide, royalty-free, and non-exclusive license to reproduce, modify, adapt and publish content solely for the purpose of displaying, distributing and promoting the Products. If Client deletes content, DutchGiraffe will use reasonable efforts to remove it from the Products, but Clients acknowledges that caching or references to the content may not be made immediately unavailable.
- 6.17 Without limiting any of those representations or warranties, DutchGiraffe has the right (though not the obligation) to, in DutchGiraffe's sole discretion (i) refuse or remove any content that, in DutchGiraffe's reasonable opinion, violates any DutchGiraffe policy or is in any way harmful or objectionable, or (ii) terminate or deny access to and use of the Products to any individual or entity for any reason, in DutchGiraffe's sole discretion. DutchGiraffe will have no obligation to provide a refund of any amounts previously paid.

7 CLAUSE 7 - DUTIES OF CLIENT

- 7.1 Client is obliged to do everything that is reasonably necessary or desirable to enable DutchGiraffe to carry out the Services and supply the Products properly and in a timely manner, in particular by providing full, sound and clear information or materials (or having such full, sound and clear information or materials provided) in a timely manner, including information regarding regulations specific to the Client's branch or industry which DutchGiraffe must observe.
- 7.2 Client warrants the accuracy and completeness of the information provided to DutchGiraffe. DutchGiraffe shall not be liable for any damages that are the result of decisions made by DutchGiraffe based on the information provided by Client.
- 7.3 In the event that Client fails to provide the necessary information to DutchGiraffe on time, DutchGiraffe may suspend the execution of the Agreement.

8 CLAUSE 8 - PAYMENT

- 8.1 Client will owe DutchGiraffe the fees indicated in the Agreement.
- 8.2 Prices are exclusive of VAT and other government levies, unless otherwise indicated.
- 8.3 Unless the Parties have agreed otherwise, Client is required to pay 50% of the total fee as a deposit before DutchGiraffe starts with the execution of the Agreement, and 50% once the Services have been performed and/or the Products have been delivered.
- 8.4 Payments must be made within thirty (30) days of the invoice date unless the Parties have explicitly agreed otherwise in writing. Payment conditions can be found in the invoice.
- 8.5 DutchGiraffe is at any time entitled to require interim payments from Client and/or to require Client to provide financial security.
- 8.6 If DutchGiraffe has not received full payment after the term in the invoice has expired, Client will be in default immediately, without any prior demand or notice of default being required. From the moment Client is in default, he will owe DutchGiraffe the statutory interest rate. All expenses that DutchGiraffe incurs, in connection with the late payments, such as legal costs and (extra) judicial costs, including costs related to legal representation, bailiffs and collection agencies, will be owed by Client.
- 8.7 If Client does not comply with its payment obligation, DutchGiraffe shall keep all Deliverables in its possession until Client complies with its payment obligation, regardless of whether the payment obligation relates to the Deliverables that DutchGiraffe holds.
- 8.8 Complaints with respect to DutchGiraffe invoices will not serve to suspend Clients payment obligations.
- 8.9 Client shall not be entitled to claim any form of suspension, set-off, retention, retention of title and/or right of recovery.

9 CLAUSE 9 - IP RIGHTS

- 9.1 All intellectual property rights - including copyright, trademark, model and database rights, know-how and any similar rights - resting on and attached to the products supplied by DutchGiraffe and/or services belong to DutchGiraffe. DutchGiraffe does not guarantee that the Products and Services do not infringe any (intellectual property) rights of third parties. The agreement reached between Client and DutchGiraffe does not transfer those rights to Client, unless explicitly stated otherwise in writing between DutchGiraffe and Client.
- 9.2 DutchGiraffe shall only, under the conditions set out in these Terms and Conditions, grant Client a limited, personal, revocable, non-sub licensable and non-transferable right to use the Deliverables, Production Materials, Services and Products in accordance with the purpose stated in the Agreement. Unless Client

receives written permission from DutchGiraffe to do so, Client is not entitled to use Deliverables (or to have them used) in a broader sense or on a manner other than that on which the Parties have agreed.

- 9.3 DutchGiraffe is entitled to use the Deliverables for its own publicity or promotion.
- 9.4 Client acknowledges that the Deliverables may contain Production Materials which are used or useable in connection with Services provided by DutchGiraffe to other (legal) persons. Accordingly, Client agrees that DutchGiraffe may use the Production Materials, as well as the knowledge acquired during the execution of the Agreement, in connection with providing Services to others, provided that confidential information with regard to the Client shall be protected.
- 9.5 In the event Client provides Client Materials to DutchGiraffe, Client automatically grants DutchGiraffe a license to use the Client Materials in so far as is necessary for the performance of the Agreement. This license includes the right to incorporate the Client Materials in the Deliverables. This license also includes the mandate for DutchGiraffe to litigate with respect to conflicts rising out of the Services and/or Products as delivered by DutchGiraffe.
- 9.6 Client indemnifies DutchGiraffe against any damages and costs relating to or resulting from claims with respect to IP Rights in respect of the Client Materials.
- 9.7 The obligations set forth above shall survive the termination, cancellation or expiry of this Agreement
- 9.8 If and insofar as necessary the Client must fully cooperate with DutchGiraffe in taking measures against third parties to maintain and protect the IP Rights to the Deliverables and to obtain new rights.
- 9.9 The Client does not have the right to use DutchGiraffe's name, logo, trademarks and/or publications or Products directly or indirectly or to refer to them without DutchGiraffe's prior written consent.

10 CLAUSE 10 - TERM AND (EARLY) TERMINATION

- 10.1 The Agreement is entered into when Client has accepted the offer and Terms and Conditions of DutchGiraffe, as specified in Clause 3 and will lapse automatically either on the date agreed upon by the Parties or the date on which the Services and/or the Products have been performed by DutchGiraffe.
- 10.2 An Agreement may not be terminated. If for any reason Client decides to cancel an Agreement the execution of which has not yet started and/or not to continue with the further execution of such an Agreement before the Agreement has been completed, Client will be obliged to pay the following amount to DutchGiraffe, the foregoing without prejudice to any other rights granted to DutchGiraffe under the law:
 - Fifty per cent (50%) of the fee indicated in the Agreement, in case of termination of the Agreement before DutchGiraffe started with the execution thereof, unless DutchGiraffe at that point already incurred more costs and/or worked more hours, in which case Client is required to pay all the costs that have been reasonably incurred.
 - Hundred per cent (100%) of the fee indicated in the Agreement, in case DutchGiraffe has already started to provide the Services and Products
- 10.3 Either Party will be entitled to dissolve the Agreement in whole or in part in the event that the other Party breaches the Agreement and/or these Terms and Conditions, provided that the other Party is given a reasonable period of time (of at least 10 working days) to correct such breach after the date of a written default notice, which notice shall stipulate the duration of such reasonable term. Each party will also be entitled to dissolve the Agreement in the event that the other Party is declared bankrupt or is granted a suspension of payments, or in the event that the other Party's business is closed down or liquidated. In the event that Client is declared bankrupt DutchGiraffe will be entitled to terminate the right of use that has been granted, unless the consequences of such termination would be contrary to the principles of reasonableness and fairness.
- 10.4 In the event of termination of the Agreement as a result of a dissolution, whatever DutchGiraffe has completed and/or performed up to that time will not be undone. Any amounts that DutchGiraffe has invoiced before the dissolution in connection with whatever DutchGiraffe has properly completed and/or performed up to that

time in connection with the performance of the Agreement will remain due in full, and will be immediately due and payable at the time of the dissolution.

- 10.5 In the event that the Agreement is terminated for whatever reason, the following obligations will continue to apply after the Agreement has ended:
- Outstanding payments;
 - Confidentiality;
 - IP Rights; and
 - Liability
- 10.6 Termination of an Agreement shall not affect any other Agreement – including (the applicability of) these Terms and Conditions – between the Parties.

11 CLAUSE 11 - LIMITATION OF LIABILITY

- 11.1 DutchGiraffe accepts no liability for damages that result from a breach by Client of its obligations or an unlawful act.
- 11.2 In the event DutchGiraffe is nevertheless liable to Client for damages arising from any other cause than as mentioned under 11.1, this liability is at all times limited to the total amount of the invoices sent by DutchGiraffe in the year the damages arised.
- 11.3 If 11.2 occurs, the liability of DutchGiraffe is at all times limited to the amount actually paid out by DutchGiraffe's insurance, subtracted with the own risk of DutchGiraffe.
- 11.4 In no circumstances liability of DutchGiraffe will include liability for (in)direct or consequential damage, this liability is expressly excluded.

12 CLAUSE 12 - INDEMNIFICATIONS AND WARRANTIES

- 12.1 Client agrees to indemnify DutchGiraffe, its affiliated companies, contractors, employees, agents and its third-party suppliers, licensors, and partners from any claims, losses, damages, liabilities, including legal fees and expenses, arising out of the use or misuse of the Services and Products, any violation by Client of these Terms and Conditions, or any breach of the representations, warranties, and covenants made by Client in these Terms and Conditions. DutchGiraffe reserves the right, at Clients expense, to assume the exclusive defense and control of any matter for which Client is required to indemnify DutchGiraffe, and Clients agree to cooperate with DutchGiraffe's defense of these claims. Upon notice of any impending claim, action or proceeding, DutchGiraffe will use reasonable efforts to notify Client of any indemnification obligation.
- 12.2 DutchGiraffe represents and warrants that she will be in accordance with the Agreement, these Terms and Conditions and with all applicable laws and regulations (including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the European Union or the country in which you reside) and that the Services and Products of DutchGiraffe will not infringe or misappropriate the intellectual property rights of any third party.

13 CLAUSE 13 - CONFIDENTIALITY

- 13.1 Parties have a duty of confidentiality towards each other with respect to any and all documents and information, computer programs, program code, specifications, sketches, models, samples, data, algorithms or other technical or business information that are made available to them (including ideas, recommendations, drafts and other proposals) insofar as they are confidential by nature and/or are protected by any IP Right, the foregoing insofar as these Terms and Conditions do not provide otherwise and/or the Parties have not agreed otherwise in writing. Third parties that are involved in carrying out the Services and Products will be bound by the same duty of confidentiality with respect to the confidential information.

- 13.2 Confidential information does not include information that was already in the public domain at the time at which it came to the attention of the recipient or that later passed into the public domain, or that the recipient received from a third party without a duty of confidentiality being imposed or that third party being required to do so.
- 13.3 The parties may not make any statements or issue any press releases regarding the Agreement without the other party's prior consent.

14 CLAUSE 14 - MISCELLANEOUS

- 14.1 These Terms and Conditions are construed in accordance with and shall be governed by and interpreted in accordance with the laws of The Netherlands exclusively.
- 14.2 Parties agree that all actions and/or proceedings arising under or in connection to these Terms and Conditions or any Agreement shall be brought in first instance exclusively before the competent court in the district of The Hague, The Netherlands.
- 14.3 The Agreement must be regarded as an assignment Agreement. DutchGiraffe and Client are independent parties that are not authorized to represent each other, to perform legal acts for each other, to act as an agent or to enter into agreements on each other's behalf, to issue guarantees or to give undertakings. There is furthermore no relationship of authority between DutchGiraffe and Client other than that between a client and a contractor within the meaning of Section 1, Part 7, Book 7, of the Dutch Civil Code.
- 14.4 For the purposes of these Terms and Conditions, email messages are considered to be written messages.
- 14.5 DutchGiraffe's failure to exercise or enforce any right granted in the Terms and Conditions shall not constitute a waiver of such right.
- 14.6 The Client can not base any rights regarding follow-up orders on the Agreement.
- 14.7 The applicability of the Vienna Sales Convention (CISG) is expressly excluded.