GENERAL TERMS AND CONDITIONS

ORANGE BUTTON BIM LICENSE

The following terms and conditions shall apply to any End-User Licensee (as defined below) or User (as defined below) using Orange Button in accordance with the Orange Button BIM License.

Article 1 – Definitions:

In these Terms & Conditions the following words and expressions shall have the following meanings unless the context requires otherwise:

"Agreement":	means the BIM License agreement between Orange Button International and End-User Licensee as concluded by End-User Licensee by accepting the terms and conditions as set out herein.
"BIM":	means Building Information Modeling.
"BIM Database":	means any data and information derived from the development and usage of Orange Button.
"BIM Firestop Suite"	means the Orange Button software available as a BIM Web Edition and BIM Revit Edition, provided as part of Orange Button.
"BIM License"	means a license as granted by Orange Button International to End User Licensee to generate Clash Positions in accordance with its Monthly Clash Credits and Yearly Clash Credits and to access BIM Firestop Suite and BIM OneClicks Apps.
"BIM One-Click Apps"	means the productivity tools included within the "BIM Firestop Suite," functioning as part of Orange Button.
"BIM Revit Edition"	means the Orange Button software available as a series of plugins for integration with Autodesk Revit, provided as part of Orange Button.
"BIM Web Edition"	means the Orange Button software available as a series of web-based BIM functionalities for integration with online, provided as part of Orange Button.
"Clash Position"	means an unique firestop clash position for Revit or IFC with unique x, y, z coordinates within BIM or it's unique combination of installation and construction element ID.
"Clash Output"	means the clash output as generated by our software clash engine.

"Clash Engine"	means the proprietary technology that uses predefined algorithms and decision logic to identify firestop clashes in BIM.
"Confidential Information":	means all information (verbally or in hardcopy and/or electronic form) with research, developments, business activities, products and/or services of Orange Button International.
"Customer":	means a customer of End-User Licensee, who wishes to receive Solutions from End-User Licensee.
"End-User Licensee":	means any company (or person) who has obtained and paid an Orange Button BIM License from Orange Button International.
"Enterprise Licensee":	means any company (or person) who has obtained and paid an Enterprise License from Orange Button International.
"Field Of Application":	means the field of application of Solutions within the Orange Button Platform in accordance with the input, data and information as defined by Manufacturer Licensee or Enterprise License.
"Intellectual Property Rights":	means all intellectual property rights with regard to - and as vested in Orange Button, including any of the following rights to: (i) any work protected by copyright (ii) any trademark for which an application may have been filed or not (including but not confined to any word, figurative or shape mark), (iii) any design or drawing which has been registered or not, or for which an application has been filed, (iv) any neighbouring rights, (v) any know-how or business secret, (vi) other intellectual property rights with regard to - and as vested in Orange Button and/or any right created through use, and any similar rights which exist in another jurisdiction together with any related extension, renewal or reinstatement of such rights, and (viii) any license to any of the foregoing.
"Manufacturer Licensee":	means any company (or person) who has obtained and paid a Manufacturer License from Orange Button International.
"Monthly Clash Credits"	means the maximum amount of Clash Positions per month as to be generated by End-User Licensee by using the BIM License.
"BIM License"	means the license as granted by Orange Button International to End User Licensee as set out in clause 2.

"BIM License Fee"	means the license fee set out on www.orangebutton.app as payable by End-User Licensee to Orange Button International for an BIM License.
"Orange Button":	means the "Orange Button software" from Orange Button International.
"Orange Button Group":	means Orange Button International, and any other company or person directly or indirectly related to one of these companies and/or its shareholders.
"Orange Button International"	means the limited liability company Orange Button International B.V. duly incorporated under the laws of The Netherlands, having its corporate seat in Berkel en Rodenrijs (gemeente Lansingerland), The Netherlands and having its principal place of business at (2652 XL) Berkel en Rodenrijs at the Leeuwenhoekstraat 48, The Netherlands, registered with the Chamber of Commerce under number 76621022.
"Orange Button Platform":	means the platform of Orange Button International which enables End-Users to perform firestop design services - with firestop products and systems of Manufacturer Licensee or Enterprise License - to customers.
"Project":	means any project by which Orange Button and/or the BIM Database has been used.
"License Year":	means a period of twelve (12) months starting upon acceptance of Orange Button BIM License by End-User Licensee for each User.
"Solutions"	means the function to automatically load firestop products and - systems in a Project.
"Solutions Output"	means the solutions output as determined by the Field Of Application
"Term":	means the term of the as set out in clause 3 of these terms and conditions.
"User":	means any individual person as registered by End-User Licensee to use Orange Button in accordance with the Orange Button BIM License.

Yearly Clash Credits	means the maximum amount of Clash Positions per License Year as to be generated by End-User Licensee by using the BIM License.

Article 2 – Orange Button BIM License

2.1 By accepting these terms and conditions and upon fulfilment of the payment obligations by End-User Licensee Orange Button International grants to End-User Licensee an Orange Button BIM License.

2.2 The End-User Licensee acknowledges and agrees that all Users collectively shall be entitled to generate Clash Positions in accordance with the Monthly Clash Credits and Yearly Clash Credits. Monthly Clash Credits may be exceeded once; however, in no event shall the End-User Licensee, in the aggregate, exceed its Yearly Clash Credits.

2.3 End-User Licensee is not entitled to transfer any rights and obligations as set out in the Orange Button License and/or these terms and conditions to any third party and End-User Licensee is not entitled to grant any sub-license with regard to the Orange Button to any third party.

2.4 The Orange Button BIM License as granted by Orange Button International to End-User Licensee shall at all times be subject to these terms and conditions and shall be limited to the sole extent required for the purpose for which this license is granted and shall remain in effect only and as long as the End-User Licensee fully complies with its obligations towards Orange Button International and these general terms and conditions.

2.5 The End-User Licensee acknowledges and agrees that each BIM License permits multiple Users within the End-User's organization to be assigned and use Orange Button BIM, provided that each User is part of the same organization. The BIM license may be reassigned to other Users within the organization as needed.

Article 3 – Term

3.1 End-User Licensee agrees and is aware that the term for the Orange Button BIM License shall be at least a License Year.

3.2 Upon the expiration of first License Year, the BIM License shall automatically renew for an additional License Year unless terminated by either Party with a written notice taking into account a notice period of at least thirty (30) days prior to the end of the applicable License Year.

Article 4 – BIM License fee

4.1 End-User Licensee is aware that the BIM License Fee as payable by End-User Licensee to Orange Button International for an BIM License is set out on www.orangebutton.app.

4.2 End User Licensee hereby authorizes Orange Button International to automatically debit the BIM License Fee due from the bank account designated by End User Licensee. End User Licensee may choose between

two payment options: (i) monthly debit of the BIM License Fee; or (ii) a single annual debit of the BIM License Fee. End User Licensee shall indicate its preferred option upon executing of the Orange Button BIM License.

4.3 End User Licensee ensures towards Orange Button International that sufficient funds are available in the designated bank account on the scheduled debit dates. In the event of a failed debit due to insufficient funds or other reasons within End User Licensee's control, Orange Button International reserves the right to suspend the End User Licensee's access to Orange Button. Notwithstanding such suspension, End User Licensee shall remain liable for the payment of the payable BIM License Fees.

Article 5 - Termination

5.1 Either Party shall be entitled to terminate ("*ontbinden*" in Dutch) the Orange Button BIM License, without prejudice to its other rights and remedies forthwith on written notice in the event that the other Party:

- commits a material breach of the terms of Orange Button BIM License not remedied within 30 (thirty) days and after receipt of a written notice thereof; or
- shall cease to carry on its business or shall have a liquidator, receiver or administrative receiver appointed to it or over any part of its undertaking o assets or
- shall pass a resolution for its winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction where the resulting entity shall assume all of the liabilities of it) or a court of competent jurisdiction shall make an order, or
- shall enter into any voluntary arrangement with its creditors, or
- shall be unable to pay its debts as they fall due, or similar arrangement in any jurisdiction.

5.2 Termination (*beëindigen* in Dutch) of Orange Button BIM License for any reason whatsoever shall not relieve End-User Licensee of its obligation to make prompt payment in full of any and all amounts owed to Orange Button International which are accrued and outstanding as of the date of termination (*beëindiging* in Dutch) and shall not relieve either Party from any other liability or obligation which has previously accrued as of such date.

5.3 Parties agree that the rights and obligations as set out in these terms and conditions that by their nature would be expected to survive expiration or termination of the Orange Button BIM License, shall survive such expiration or termination (*beëindiging* in Dutch). Such rights and obligations include, but are not limited to Intellectual Property rights, Confidentiality, governing law and jurisdiction.

Article 6 – Force Majeure

6.1 Orange Button International shall be liable for failure to perform or delay in performing any obligation towards End-User Licensee, if such failure or delay is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil commotion, industrial dispute, hacking and or all other forms of cybercrime.

6.2 End-User Licensee agrees that Orange Button International shall use its best endeavours to protect Orange Button, the BIM Database and all related information and documentation with regard thereto against hacking and/or any other forms of cybercrime and End-User Licensee agrees that Orange Button International shall not be liable for any damages as a result thereof except in the case of intent or gross negligence on the part of Orange Button International.

Article 7 – Limitation of liability and indemnity

7.1 Orange Button International shall not be liable for any failure in the performance of its obligations under Orange Button BIM License, with the exception of tort or gross negligence of Orange Button International.

7.2 Should a court of law determine that Orange Button is liable for damages as incurred by End-User Licensee, the liability for damages as caused by Orange Button International towards End-User Licensee is in any event limited to a maximum of the License Fee which Orange Button International has received from End-User Licensee with regard to Orange Button BIM License over the period of twelve (12) months before the applicable defect.

7.3 The total liability of Orange Button International for each separate event is for all End-User Licensees together limited to an amount of € 100.000,-- with the exception of gross negligence or tort.

7.4 Any claim of End-User Licensee in the sense as set out above, must be filed within one (1) month after discovery of damages, in default of which End-User Licensee forfeits its rights to claim damages from Orange Button International.

7.5 Orange Button International shall not liable towards End-User Licensee, its Users or its Customers for any consequential damage for example but not excluding, loss of profit, lost savings, loss of goodwill, loss due to business interruption, damages as a result of claims of customers or any third party and/or loss of data.

7.6 End-User Licensee shall indemnify and hold Orange Button International harmless from and against any and all responsibility or liability which Orange Button International may incur, suffer or sustain should End-User Licensee not fully comply with its obligations towards Orange Button International as set out in Orange Button BIM License.

Article 8- Limitation of Rights on Clash Output and Solutions Output

8.1 The end user acknowledges and accepts that all information, notifications, warnings, or results generated by the Clash Output functionality of Orange Button are intended solely as an aid to support the End-User Licensee and as an indication of potential firestop Clash Positions, conflicts or inconsistencies within the project or system in use.

8.2 The Clash Output is based on data and settings provided by the End-user Licensee and may be subject to inaccuracies, incomplete information, or interpretive differences. Orange Button does not guarantee the accuracy, completeness, or reliability of the Clash Output results and disclaims any liability for errors or inaccuracies in the generated output.

8.3 The Solutions is based on data and settings provided by the Manufacturer Licensee or Enterprise Licensee and may be subject to inaccuracies, incomplete information, or interpretive differences. Orange Button does not guarantee the accuracy, completeness, or reliability of the Solutions results and disclaims any liability for errors or inaccuracies in the generated output.

8.4 End-user Licensee agrees and is aware that End-user Licensee cannot derive any rights from the Clash Output and Solutions Output of Orange Button, nor can the Clash Output and Solutions Output be considered a definitive assessment or approval regarding the validity, accuracy, or feasibility of projects, designs, or other work products.

8.5 End-user Licensee agrees and is aware that the Clash Output and Solutions Output does not offer any guarantees and that Clash Output and Solutions Output cannot be used as a sole source for decisions or as a legal basis.

Article 9 - Intellectual Property and BIM Database

9.1 End-User Licensee and User acknowledge that all Intellectual Property Rights related to – and/or arising from the use of – Orange Button are exclusively owned by Orange Button International. It is expressly not the intention of End-User Licensee or Orange Button International to transfer any Intellectual Property Rights related to – or arising from Orange Button BIM License to End-User Licensee.

9.2 Parties are aware and agree that all Intellectual Property Rights and data resulting from – and/or arising from the further development of Orange Button and/or the BIM Database are exclusively owned by Orange Button International. End-User Licensee is aware and agrees that by using the Orange Button data of End-User Licensee is generated and stored by Orange Button international. Orange Button International is during and after the Term entitled to use this data and/or any information from the BIM Database.

9.3 End-User Licensee shall not use Orange Button and/or any Intellectual Property Rights related to – and/or arising from the use of – the Orange Button and/or the BIM Database (or parts thereof) after the expiry or termination (*beëindiging* in Dutch) of Orange Button BIM License (for whatever reason).

9.4 End-User Licensee shall always use the trademark Orange Button in connection with any communication about Orange Button and End-User Licensee shall not remove any reference to Orange Button from any form or document.

9.5 In the event of any breach of an obligation under this clause 9 End-User Licensee shall forfeit towards Orange Button International an immediately due and payable penalty of € 10,000,00 (in words: ten thousand euros), plus € 1,000,00 (in words: one thousand euros) for each day that the applicable violation continues, without prejudice to Orange Button International's right to full compensation of all damages as suffered by Orange Button International in this regard. A violation by an underlying shareholder of any legal entity or person affiliated with End-User Licensee is considered a violation of this article 9 by End-User Licensee itself.

Article 10 – Relations and employees Orange Button Group

11.1 End-User Licensee, is prohibited to directly or indirectly, for themselves and / or for others, independent or otherwise during the Term of Orange Button BIM License and for a period of five (5) years after termination (*beëindiging in Dutch*) of Orange Button BIM License (of whatever cause), or any other company or person directly or indirectly related to

a. to approach any employee of the Orange Button Group, in order to persuade them to terminate any (employment) agreement with Orange Button Group;
b. to employ direct or indirect, assign direct or indirect, any person, employee (or future employee), of the Orange Button Group, or any freelancer on assignment working for any company or person being part of the Orange Button Group, in order for this person to perform any kind of activity or render any service for End-User Licensee, or any other company or person directly or indirectly related to End-User Licensee.

10.2 In the event of any breach of an obligation under this clause 10, End-User Licensee shall forfeit towards Orange Button International an immediately due and payable penalty of € 50,000,00 (in words: fifty thousand euros), plus € 5,000,00 (in words: five thousand euros) for each day that the applicable violation continues, without prejudice to Orange Button International' s right to full compensation of all damages as suffered by Orange Button International in this regard. A violation by a User, an underlying shareholder of any legal entity or person affiliated with End-User Licensee is considered a violation of this article 10 by End-User Licensee itself.

Article 11 – Confidentiality

11.1 End-User Licensee shall during the Term of Orange Button BIM License and after termination (*beëindiging* in Dutch) or expiry thereof:

(a) keep confidential, and shall not disclose to any third party for any reason, any Confidential Information of Orange Button International without the prior written consent of Orange Button International at its sole discretion; and

(b) protect the confidentiality of Orange Button International's Confidential Information in the same manner that it protects the confidentiality of its own similar confidential information, but in no event using less than a reasonable standard of care.

11.2 Each Party warrants that:

(i) the Party and its employees will use the Confidential Information of the disclosing Party solely in accordance with the terms hereof and will not appropriate it for its own use;

(ii) the Party will maintain the confidentiality and security of the Confidential Information during the term, any extension thereof, and/or after termination of Orange Button BIM License;

(iii) the Party will restrict access to the Confidential Information to those of its personnel (including such personnel employed by its affiliates);

(iv) the Party and its employees and/or authorized subcontractors will not disclose any Confidential Information of the disclosing Party in any manner whatsoever; and

(v) assistance in obtaining an order protecting the information from public disclosure.

11.3 If a Party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information of the other Party, it will promptly notify the other Party of such receipt and tender to the other Party the defense of such subpoena or process. If requested by the other Party, the receiving Party will reasonably cooperate (at the expense of the other Party) in opposing such subpoena or process. To the extent the subpoena or process is ultimately not quashed or limited, the receiving Party will then be entitled to comply with such request (as may have been limited as part of the contestation process) to the extent permitted by law.

Article 12– Privacy Policy

12.1 Orange Button International processes personal data of its Users. This concerns name, address, and email address. The processing of personal data takes places in the following situations:

1. Formation and execution of an agreement with an End-User Licensees;
2. Administrative processing; to offer and/or deliver services to End-User Licensees;
3. Invoicing; should payment fail, Orange Button International may pass on the claim for collection, to a debt collection company;
4. To make a personal account of User on the website of Orange Button International;
5. to provide manufacturers with a manuafacture license agreement with insight into the use of their firestop solutions
6. To control, analyze, maintain, optimalize and secure services and to detect and deter misuse and/or fraud of services;
7. To determinate strategic analyses and reports of our services; and/or
8. If User visits one of our (mobile) websites, our servers may (automatically) save information such as URLs, IP-addresses, browsertypes, languages, data and times of the visits.

(i) In the aforementioned situations the name, address, and email address are necessary for the execution of the agreement.

(ii) In the aforementioned situations the personal data, i.e. e-mail address, are provided optionally for which processing User provides permission.

(iii) In aforementioned situations Orange Button International has a legitimate interest to process personal data.

The provided personal data shall solely be processed by Orange Button International for the purpose of the execution of license agreements with regard to Orange Button being the purpose for which the personal data is collected.

12.2 User shall at all times have the option whether or not to disclose personal data. However, for the use of a number of services it is requested to disclose personal data to Orange Button International. If the input of details is required, Orange Button International shall inform User which data are necessary to be able to use its services.

12.3 All our Users have certain rights under the GDPR legislation to manage their own personal data:

- right of access and information;
- Right of rectification;
- Right of erasure;
- Right to object the processing of his/her personal data;
- Right of data portability; and
- Right of restriction of processing

In addition, User may withdraw the consent he/she has given to the processing of his data at any time. Furthermore, User has the right to complain about our data processing activities to a data protection authority. In cases User wishes to invoke one or more of these rights, he/she may contact Orange Button International.

12.4 Notwithstanding the below mentioned, only persons authorized by Orange Button International for the security and/or processing and/or maintenance of IT-structure have access to personal data of Users.

12.5 If, for the purposes as set out in this privacy policy, Orange Button International involves a controller, such as postal services and payment services, we close an agreement with such controller to ensure that the controller offers sufficient assurance with regard to technical and organizational safety measures.

12.6 Orange Button International has taken adequate technical and organizational measures to secure the personal data of its users against loss or unlawful processing, amongst which (i) storage of personal data in a secured database with encrypted passwords and secured backups and (ii) payment orders to Orange Button International through secured payment systems.

12.7 Orange Button International shall not provide personal data of its users to third parties unless set out in this and/or unless this is necessary for the execution of its services, on the basis of a statutory provision or in case of an emergency if this is, in the reasonable opinion of Orange Button International, in the interest of its Users. This includes legitimate requests of authorities, summons or court orders, acts to investigate or prevent damages or fraud, or acts to guarantee the safety of Orange Button.

12.8 Apart from the use of cookies, Orange Button International does not collect any data automatically. Orange Button International does not process sensitive personal data. The personal data shall solely be stored during the period which shall be necessary for the execution of the purposes as set out above, unless applicable laws prescribe longer retention periods in which case the personal data shall be stored for the period as prescribed by the applicable laws

Article 13 - Whole Agreement

13.1 Orange Button BIM License and these terms and conditions constitute the whole agreement between Orange Button International and End-User Licensee and there are no promises, terms, conditions, obligations, representations or warranties, oral or written, expressed or implied, other than those contained herein. Orange Button BIM License supersedes any previous agreements between the Parties.

13.2 No amendment to or modification of Orange Button BIM License is effective unless it is in writing, identified as an amendment to Orange Button BIM License and signed by an authorized Representative of each Party

Article 14 - Governing law and jurisdiction

14.1 Any conflict or dispute between Orange Button International and End-User Licensee relating to the Orange Button BIM License shall be governed solely by the laws of The Netherlands, excluding its conflict of laws principles.

14.2 For any conflict or dispute between Orange Button International and End-User Licensee relating to the Orange Button BIM License solely the District Court of Rotterdam, The Netherlands, will be competent, without prejudice to the right to appeal with the competent Dutch courts.