

## **GENERAL TERMS AND CONDITIONS SMT-SYSTEMS BV**

### Article 1. Definitions

In the present general terms and conditions, the following terms are used in the sense given below.

- SMT-SYSTEMS: The user of the general terms and conditions.
- Buyer : SMT-SYSTEMS opposite party, acting in the course of a business or in the course of a profession.

### Article 2. General

1. The stipulations of the present terms and conditions shall apply to each and every offer and agreement between user and a buyer, to which user has declared the present terms and conditions applicable, insofar as parties have not explicitly deviated from the present terms and conditions in writing.
2. The present terms and conditions shall also apply to all agreements with user, the execution of which calls for the services of third parties.

### Article 3. Offers and Tenders

1. All offers shall be free of obligation unless the offer contains an acceptance term.
2. The offers made by SMT-SYSTEMS shall be free of obligation; they shall be valid for a period of fourteen days, unless indicated otherwise. User shall only be bound by the offers if the acceptance thereof is confirmed in writing by the buyer within fourteen days.
3. The prices given in above-mentioned offers and tenders shall be exclusive of VAT, unless explicitly stated otherwise.

### Article 4. Execution of the Agreement

1. SMT-SYSTEMS shall execute the agreement to the best of its knowledge and ability.
2. If and in so far required for the proper execution of the agreement, SMT-SYSTEMS shall have the right to have certain work done by third parties.
3. The buyer shall see to it that SMT-SYSTEMS shall be provided in due time with all data which user has said to be necessary or which the buyer must in all reasonableness understand to be necessary to the execution of the agreement. If SMT-SYSTEMS has not been provided in due time with the data necessary to the execution of the agreement, SMT-SYSTEMS shall have the right to suspend the execution of the agreement and / or to charge the buyer for the additional costs resulting from the delay at the generally accepted rates.
4. SMT-SYSTEMS shall not be liable for damage of whatever nature caused by the fact that user worked on the basis of incorrect and / or incomplete data provided by the buyer, unless SMT-SYSTEMS should have been aware of said incorrectness or incompleteness.
5. If parties have agreed that the agreement will be executed in stages, SMT-SYSTEMS can suspend the execution of the parts belonging to a following stage until the buyer has approved in writing the results of the stage prior to it.

### Article 5. Delivery

1. The Agreement is concluded for an indefinite period unless otherwise expressly and in writing agreed, or the content, nature or scope of the assignment granted is that they provide a certain time is given.
2. If user has given a term of delivery, it shall only be indicative. A given term of delivery shall therefore never constitute a term to be observed on penalty of forfeiture of rights. If a term is exceeded, the buyer must give SMT-SYSTEMS notice of default in writing

General Terms and Conditions

...SMT-SYSTEMS ...Het Nieuwe Werk 100-102...1781 AK Den Helder...  
...tel: 0031 223 683510...fax: 0031 223 683596...Email: info@smt-systems.nl...

#### Article 6. Changes to the agreement

1. If it is shown during the execution of the agreement that the work to be done needs to be changed and / or supplemented in order to ensure its proper execution, parties shall adapt the agreement accordingly in due time and in mutual consultations.
2. If parties agree that the agreement needs to be changed and / or supplemented, this decision may influence the time of completion of the execution. SMT-SYSTEMS shall inform the buyer thereof as soon as possible.
3. Should the change and / or supplement to the agreement have any financial and / or qualitative consequences, SMT-SYSTEMS shall inform buyer thereof in advance.
4. If a fixed rate has been agreed upon then SMT-SYSTEMS shall indicate the degree to which the change or supplement to the agreement will result in an increase of said fixed rate.
5. Contrary to the conditions governing this matter, SMT-SYSTEMS shall not be able to charge additional costs if the change or supplement is the result of circumstances attributable to user.

#### Article 7. Secrecy

Both parties shall be bound to secrecy of all confidential information they have received within the scope of their agreement from each other or from another source. Information shall be considered to be confidential if the other party has indicated so or if the confidential character results from the nature of the information.

#### Article 8. Intellectual Property

1. Without prejudice to the other stipulations of the present general terms and conditions, user shall reserve the rights and authorities to which user is entitled under the Copyright Act.
2. All documents, such as designs, sketches, drawings, films, software, (electronic) files, etc., provided by user, shall be destined to be used by buyer exclusively and must not be reproduced, made public or brought to the notice of third parties by buyer without prior consent from SMT-SYSTEMS, unless the nature of the documents provided dictates otherwise.
3. SMT-SYSTEMS shall reserve the right to use the knowledge gained due to the execution of the work for other purposes, in so far no confidential information shall be brought to the notice of third parties when doing so.

#### Article 9. Termination of contracts

Both parties have the possibility to terminate the agreement at any time. In case of termination, parties should be aware of at least fourteen days as notice period.

#### Article 10. Termination of a contract

1. The claims of SMT-SYSTEMS on the buyer can be charged immediately in the following situations:
  - when after agreement with the buyer, SMT-SYSTEMS has acquired information which create reasonable doubt about the extent to which the buyer will be able to fulfill its responsibilities.
  - when both parties in the contract explicitly agreed to perform certain acts, and the buyer does not / or does not sufficiently follow up these agreed acts.
2. In the situations given above, SMT-SYSTEMS has the right to terminate the agreement, and the right to demand for compensation.

#### Article 11. Imperfections; term of complaints

1. Complaints of the buyer concerning the performed work should be reported within eight days after discovery, and a written complaint should be sent within fourteen days after SMT-SYSTEMS has fulfilled the work.
2. If a complaint proves to be well-founded, SMT-SYSTEMS shall yet do the work as agreed upon, unless such has become demonstrably useless in the meantime to the client. The client must notify user in writing if the latter is the case.
3. If it is no longer possible or useful to still do the work with respect to the provision of services agreed upon, user shall only be liable within the limits of article 15.

#### Article 12. Honorarium

1. For offers and agreements in which a fixed honorarium has been agreed upon, points 2,5 and 6 of this Article are leading. When no fixed honorarium has been agreed upon, points 3 through 6 of this Article hold.
2. Both parties can agree upon a fixed honorarium during completion of the agreement. The fixed honorarium is calculated without BTW (VAT).
3. When no fixed honorarium has been agreed upon, the total honorarium will be determined by calculating all the working hours. The honorarium itself will be calculated by using the general tariff per hour, unless another amount has been agreed upon.
4. A bill of quantities is calculated without taking BTW (VAT) into account.

#### Article 13. Payment

1. Payment must be made within 30 days from the date of invoice, in a way to be indicated by SMT-SYSTEMS and in the currency in which the goods were invoiced.
2. If buyer fails to fulfil his payment obligation within the term of 14 days, then buyer shall be in default by operation of law. In that event, buyer shall owe an interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate shall apply.
3. SMT-SYSTEMS' claims against buyer shall become due on demand in the event that buyer is wound up, attached, declared bankrupt, or if a suspension of payment is granted.
4. SMT-SYSTEMS shall be entitled to have the payments made by the buyer go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal sum and the current interest. User shall have the right, without this leading user to be in default, to refuse an offer for payment, if the buyer designates a different sequence of attribution. User shall be entitled to refuse full payment of the principal sum, if said payment does not include the interest still due, the current interest and the costs.

#### Article 14. Collection Charges

1. If the buyer fails to fulfil his obligations (in due time) or defaults on them, then all reasonable costs incurred to have all extrajudicial costs and debts paid shall be borne by the buyer. If the buyer remains in default of payment within the set time period, he forfeits an immediately payable fine of 15% on the amount due at that moment. This with a minimum of € 100,00.
2. If user demonstrates that he has incurred higher expenses, which were necessary in reason, said expenses shall also qualify for reimbursement.

#### Article 15. Remuneration, Price and Costs

1. If user has put goods at buyer's disposal during and in connection with the execution of the agreement, buyer shall be held to return the delivered goods within 14 days in their original state, free of defects and in their entirety. If buyer fails to fulfil this obligation, all resulting costs shall be at buyer's expense.

#### General Terms and Conditions

...SMT-SYSTEMS ...Het Nieuwe Werk 100-102...1781 AK Den Helder...  
...tel: 0031 223 683510...fax: 0031 223 683596...Email: info@smt-systems.nl...

2. If, for any reason whatsoever, buyer still remains in default to fulfil the obligation mentioned under 1. after being warned to do so, user shall be entitled to recover the resulting damage and costs, including replacement costs, from buyer.

#### Article 16. Liability

Should SMT-SYSTEMS be liable, then said liability shall be limited to the stipulations of the present condition:

1. SMT-SYSTEMS' liability shall at all times be limited to a maximum equalling the amount of the payment to be made by SMT-SYSTEMS' insurer in the occurring event.
2. In the event the Insurer denies a claim against SMT-SYSTEMS or if the damage being claimed is not covered by the Insurer, SMT-SYSTEMS' liability is limited to the amount of the invoice or the amount of that part of the invoice pertaining to the claim, whichever is less.
3. In the event of an assignment with a duration of more than 6 months, the liability shall, contrary to the stipulations under 2. of the present article, furthermore be limited to the part of the fee still due for the last six months.
4. The limitations of liability for direct damage contained in the present terms and conditions shall not apply if the damage is due to intentional act or omission or gross negligence on the part of SMT-SYSTEMS or his subordinates.
5. SMT-SYSTEMS shall never be liable for indirect damage, including consequential damage, loss of profit, lost savings and damage due to business stagnation.

#### Article 17. Force Majeure

1. Parties shall not be held to fulfil any of their obligations if they are hindered to do so due to a circumstance through no fault of their own and which cannot be attributed to them by virtue of law, a legal action or generally accepted practice.
2. In addition to the provisions of the law and the judge-made law in this respect, force majeure shall in the present general terms and conditions furthermore be understood to be any external circumstance, be it envisaged or not, on which user cannot have any influence but which prevents user from fulfilling his obligations. Industrial action at user's company shall also be understood to be a circumstance of force majeure.
3. SMT-SYSTEMS shall also be entitled to invoke force majeure if the circumstance rendering (further) fulfilment of the obligation(s) impossible, commences after the point in time on which SMT-SYSTEMS should have fulfilled his obligation.
4. Insofar user has already partially fulfilled his obligations resulting from the agreement at the moment the circumstance of force majeure commenced or shall be able to fulfil them and insofar separate value can be attributed to the part already fulfilled or still to be fulfilled respectively, user shall be entitled to invoice the part already fulfilled or still to be fulfilled respectively. The buyer shall be held to pay this invoice as if it were a separate agreement.

#### Article 18. Disputes

The Court in SMT-SYSTEMS' place of business shall have exclusive jurisdiction to hear actions, unless the District Court is the competent Court. SMT-SYSTEMS shall nevertheless be entitled to submit the dispute to the Court deemed competent by the law.

#### Article 19. Applicable Law

Dutch law shall apply to each and every agreement between SMT-SYSTEMS and the buyer.

#### General Terms and Conditions

...SMT-SYSTEMS ...Het Nieuwe Werk 100-102...1781 AK Den Helder...  
...tel: 0031 223 683510...fax: 0031 223 683596...Email: info@smt-systems.nl...