

ARTICLE 1. APPLICABILITY AND DEFINITIONS

- 1.1 In these conditions, SMST means the purchasing party that issued these terms and conditions ("Terms").
- 1.2 Order means any order, purchase order, request or contract issued from SMST to Supplier including the Terms and any other documents referenced therein.
- 1.3 Supplier means the Party engaged by SMST for the Work and denoted as such in the Order.
- 1.4 References to and applicability of terms of business or any other terms or conditions other than these Terms are hereby expressly rejected and waived, and Parties agree that the Terms shall apply to any inquiries, requests, Orders, quotes and commissions.
- 1.5 Any deviations to the terms shall apply only when there are expressly denoted in the Order in which case such deviations shall take precedence.

ARTICLE 2. ORDER

- 2.1 SMST is entitled to withdraw any inquiry or request, whether verbally or in writing, without any obligations and/or liabilities towards Supplier.
- 2.2 An Order will be deemed accepted by Supplier upon the first occurrence of the following: i) Supplier signing, or delivering to SMST any letter, form, or other written instrument acknowledging acceptance of the Work; ii) any performance or start of the Work by Supplier under the Order. Unless specifically agreed otherwise between the Parties in writing, the Supplier shall not be entitled to any compensation before the Order is accepted and signed by both Parties.
- 2.3 Unless agreed otherwise in writing, the prices stated in the Order are: i) fixed; ii) exclusive of any applicable Dutch Value Added Tax; but iii) inclusive all other taxes, duties, levies, fees, charges, sales and business tax; and iv) based on the term of delivery: Delivered Duty Paid (DDP) Incoterms 2020 ("Delivery") to the agreed place of delivery according to the version of Incoterms applicable at the time of Order.
- 2.4 Supplier guarantees that it has an unambiguous and full understanding of the Order, the Work and Delivery. Supplier shall supply the Work in accordance with the applicable rules and regulations including the Terms, specifications, warranties, representations, conditions, certificates, drawings, procedures, manuals. If Supplier has any doubts regarding the fitness of the Work for the intended purpose, Supplier will inform SMST immediately.
- 2.5 If Supplier has no demonstrable experience regarding the Work or intended use or purpose of the Work, or if the Work to be delivered is still at a 'prototype' stage, Supplier shall inform SMST of this in writing before entering into an Order.
- 2.6 Supplier shall issue a project schedule to guarantee Delivery and regular progress updates during the execution of the Work, detailing the (scheduled) progress of the design, production, inspection, testing and Delivery phases of the Order.
- 2.7 Supplier shall immediately inform SMST in writing when Supplier becomes aware of any circumstances which may adversely affect its ability to meet any of its obligations in whole or in part under the Order, including but not limited to meeting the Delivery time, quantity and/or quality of the Work.
- 2.8 Supplier shall not subcontract or assign the Order or parts thereof, unless express prior written consent is given by SMST. In such event: i) the Supplier shall make the Terms applicable to the subcontractors; and ii) any subcontracting or assignment shall not affect Supplier's obligations and liability under the Order.
- 2.9 Unless agreed otherwise, the Supplier is entitled to submit its invoice upon Delivery. Payment of all correctly submitted invoices shall be within 60 days of receipt thereof. Submitted invoices shall separately state any amount due for V.A.T.
- 2.10 SMST shall have the right to offset any amounts owed to it by Supplier against any invoices issued, if the outstanding amount owed to SMST exceeds the value of issued invoices. Such amount shall be considered a debt from Supplier to SMST.

ARTICLE 3. TAX

- 3.1 If applicable, the Supplier shall be responsible for complying with all customs regulations relating to the Order and/or materials to be incorporated into the Work. The Supplier shall maintain such records and provide documentation as may be required to satisfy customs authorities as to the usage, disposal and/or re-export of equipment and/or materials provided for the Works. In the event of failure of the Supplier to comply, the Supplier shall be liable for and shall hold harmless SMST from any resulting fines, penalties, costs and/or any loss of importation bonds.
- 3.2 If the *Wet Ketenaansprakelijkheid/ Inlenersaansprakelijkheid* (sequential liability for subcontractors taxes and social security) applies, notwithstanding any other clause in these Terms the following shall apply:
 - a. SMST has the right to pay Supplier's payroll taxes, included, but not limited to income tax, national insurance contributions, employee insurance schemes contributions and income dependent contribution for the Healthcare Insurance Act (as defined herein) and value added tax ("Payroll Taxes") owed in respect of the Work and for which SMST bears joint and several liability pursuant to the *Wet Ketenaansprakelijkheid/ Inlenersaansprakelijkheid*, by crediting the amounts concerned to Supplier's blocked G-account within the meaning of the *Wet Ketenaansprakelijkheid/ Inlenersaansprakelijkheid*. At its sole discretion, SMST can determine the applicable percentage (with a maximum of 40%) of any payment due to Supplier that will be credited to Supplier's blocked G-account.
 - b. Without prejudice to the provisions of the preceding clause 3.2 sub a., SMST will have the right to retain such amounts in respect of Payroll Tax and value added tax out of the price stated in the Order and to pay them directly to the Tax Authorities on Supplier's behalf. At its sole discretion, SMST can determine the applicable percentage of any payment due to Supplier that will be paid directly to the tax authorities on Supplier's behalf. Through such payment, SMST will have discharged its debt to Supplier with respect to the amounts concerned.

- c. At the request of SMST, Supplier will present the original of a statement showing the payments made by Supplier to the tax authorities, as referred to in the guidelines adopted in connection with the *Wet Ketenaansprakelijkheid/ Inlenersaansprakelijkheid*.
- 3.3 If the Supplier is a ZZP'er (a self-employed person with no employees), Supplier will provide SMST with a copy of a valid *Verklaring Arbeids Relatie* ("VAR" - a declaration of independent contractor status). That is a VAR, *Winst Uit Onderneming* (VAR, profit from entrepreneurship) or a VAR, *Directeur Groot Aandeelhouder* (VAR, managing director and major shareholder). The activities described in the VAR must correspond to the activities described in the Order.

ARTICLE 4. QUALITY, HEALTH, SAFETY AND ENVIRONMENT

- 4.1 The Supplier shall have an implemented and documented system for Quality Assurance ("QA") according to the current ISO 9001 Standard/EN ISO 9001 or equivalent. The Supplier shall perform the Work in full compliance with the QA system and in strict compliance with the quality control system and specification as specified in the Order.
- 4.2 SMST requires that: i) Supplier has in place a health, security and environment ("HSE") management system complying with all applicable laws and regulations and industry sector good practices; and ii) will conduct the Work under that HSE management system; and iii) Supplier actively pursues the highest standards of HSE performance.
- 4.3 Failure to meet these standards and failure to produce evidence of a well-maintained and documented HSE management system may be regarded a material breach of the Terms.
- 4.4 If the Work is performed on SMST's or SMST's client's premises the persons performing the Work shall be fit for the execution of the Work. Supplier shall comply with all applicable rules, regulations, programmes, policies and procedures, including any drug and/or alcohol abuse regulations in effect at all work sites.

ARTICLE 5. INSPECTION, TESTING, CERTIFICATION

- 5.1 Supplier shall ensure that the Work is inspected and tested and is in conformity with the specifications of the Order before Delivery. If the Work has to be tested and/or approved by a certifying authority Supplier will arrange such testing or approval as per the Order and coordinate such testing and/or approval at its own risk and expense, unless agreed otherwise in the Order. SMST has the right but not the obligation to witness or independently verify the testing and/or approval process by Supplier. Any such inspection and testing shall not relieve Supplier of any (Guarantee) obligations under the Order.
- 5.2 SMST, its clients, or any Third Party so appointed by SMST may at any time after issuance of the Order carry out inspections or tests of the Work, which shall not relieve Supplier from any of its obligations under the Order. Supplier shall fully cooperate with these inspections and shall arrange free access to Supplier's or its subcontractors' premises and any other premises where the Work is being performed. Supplier shall, at SMST's request, within 1 week of such request issue a progress report of the Work and hand over any inspection and/or test reports and/or certificates which are already available.
- 5.3 All documentation, including but not limited to (material) certificates, inspection and approval or test reports as specified in the Order shall be supplied to SMST prior to or on Delivery, unless otherwise agreed in the Order.
- 5.4 SMST has the right at any reasonable time to audit and take copies of extracts from Supplier's and its (sub)contractor's books, accounts, records and original documents and computer data relating to the Order.
- 5.5 SMST has the right to withhold 10% of the Order value until the Work has been tested and accepted by SMST. In addition, SMST is entitled to withhold an extra 10% of the Order value if the necessary documentation as per clause 5.3 is not submitted at Delivery. The Order value withheld (maximum 20%) shall be due as soon as the Work has been tested and accepted and/or the aforementioned documentation is in the possession of SMST.

ARTICLE 6. DELIVERY AND TRANSPORT

- 6.1 The agreed times of (partial) Delivery of the Work is of fundamental importance to SMST. If Supplier fails to meet the agreed (partial) delivery times, it shall automatically be in default.
- 6.2 Unless otherwise agreed in writing, delivery and transport is undertaken in accordance with the applicable Delivery term as denoted in the Order for the account of and at the risk of the Supplier.
- 6.3 Supplier shall provide sound packaging that is suitable for the method of Delivery, including where necessary the provision of cribbing, stowing, sea fastening and equipping with crane hooks and/or fittings for the (un)loading of the Work, or as otherwise described in the Order.
- 6.4 Unless otherwise agreed in the Order, the Delivery place shall be the office address of SMST.
- 6.5 The receipt of and/or payment for the Delivery of the Work or parts thereof shall not be regarded as acceptance or conformity of the Work as supplied.
- 6.6 If Supplier has not performed the Work or made the Delivery in accordance with the Order, without prejudice to any other rights of SMST under the Order or at law, SMST shall have the right to claim a reduction in price from Supplier.

ARTICLE 7. TITLE, OWNERSHIP AND RISK

- 7.1 From the time the Work is first identifiable as such, title to any goods and materials for use, incorporation, or processing into the Work shall vest in SMST, whether or not the goods have been made available to SMST. Supplier shall warrant that the aforementioned goods and materials shall be free from any liens, pledges, rights of retention, encumbrances or any other rights. SMST is at all times entitled to claim, mark, take possession of and safeguard the Work, irrespective of payment and any rights of retention or suspension of Supplier, or termination of the Order.

- 7.2 The Work and any goods and materials for the Work shall be clearly marked as the SMST's property and, when at the Supplier's site, stored separately.
- 7.3 The risk of damage to or loss of the Work is transferred to SMST upon Delivery, but only after the Work is accepted by SMST.
- 7.4 Supplier shall fully cooperate with SMST should SMST wish to vest any liens, encumbrances or other such rights on the goods.

ARTICLE 8. GUARANTEE

- 8.1 The Supplier shall guarantee that the Work i) is new and is in conformity with the specifications and requirements of the Order, ii) is free of any defects, latent or otherwise and any faults regarding design, materials and workmanship iii) is exempt from any restricted rights including rights of retention ("Guarantee").
- 8.2 Unless otherwise expressly agreed, a Guarantee period of twelve (12) months applies from the date the Work is delivered from SMST to its client and brought into operation by SMST's client ("Guarantee Period").
- 8.3 Within the Guarantee Period, the Supplier is obliged to remedy any and all defects and/or failures to the Work free of charge and without delay by means of repair or replacement including any removal and/or disassembly and installation and/or assembly of the Work or part thereof as directed by SMST.
- 8.4 When Work is modified, replaced or repaired, or when remedial work is carried out under the Guarantee, a full twelve (12) months Guarantee Period comes into force in respect of the Work after acceptance of the remedial work.
- 8.5 In urgent situations, or when Supplier does not comply with its Guarantee obligations under this clause 8, SMST is entitled to carry out the necessary Work or have it carried out by itself or a Third Party at Supplier's risk and cost.

ARTICLE 9. LIABILITY AND INSURANCE

- 9.1 Supplier shall be liable for any and all claims including but not limited to any and all damages, loss, cost, suit, judgment, award, resulting from any default, act or omission by Supplier Group under the Order and any defects, latent or otherwise, any non-conformity and design errors of the Work, including overdue Delivery.
- 9.2 Supplier shall defend, indemnify and hold harmless SMST for such claims, regardless of whether any such damage and/or loss is due to the negligence (including active, passive, sole, joint, concurrent negligence) of SMST with regard to: i) the illness, injury or death of Supplier Group's own personnel; ii) loss or damage of the Work whether in whole or part and any of Supplier Group's own property, equipment, materials and any other items whether owned, hired, leased, chartered, etc. (regardless of possession or control by the indemnitee).
- 9.3 Either Party shall not be liable to the other for any indirect or consequential damages, including but not limited to any loss of profit, loss of contracts and loss of reputation or goodwill. The obligations of Supplier as per clause 6 (delivery and transport), 8 (guarantee), 13 (confidentiality) and 14 (intellectual property) shall not be deemed indirect or consequential damages.
- 9.4 The Supplier shall maintain in full force and effect adequate insurances against its legal and contractual liabilities assumed under this Order, with the exclusion of any recourse against SMST. When the Work includes the construction and/or transportation of goods, Supplier shall provide: i) a Construction All Risks insurance to cover the Work up to the full value of the goods and up to the moment of acceptance of the Work by SMST; and/or ii) a transport insurance covering the full value of the (part of) Work being transported. SMST shall be co assured under this Construction All Risk and/or transport insurance with the exclusion of any recourse against SMST.

ARTICLE 10. SUSPENSION AND TERMINATION

- 10.1 SMST may suspend, change or terminate the Order or part of it, without any liability, in the event Supplier i) becomes bankrupt or insolvent or when insolvency, receivership or bankruptcy proceedings are commenced against Supplier or are initiated by Supplier, or ii) is in default of any of its obligations under the Order.
- 10.2 Notwithstanding SMST's right to suspend, change or terminate the Order, SMST may request Supplier to provide a recovery plan in which Supplier demonstrates that it will rectify its default upon terms acceptable to SMST. Upon SMST's written acceptance of such recovery plan, Supplier shall deliver the goods in accordance with that plan.
- 10.3 If, as a result of Force Majeure (as defined in article 12), the delay in Delivery time influences SMST's timely performance of its obligations to third parties, or if there are clear indications that execution of the Order is no longer possible, SMST is entitled to change, suspend or terminate the Order without any liability towards the Supplier.
- 10.4 If SMST wishes to cancel the Order for reasons other than the aforementioned under clause 10.1, or 10.3, SMST shall compensate Supplier for the part of the Work properly performed up to the date of notice of cancellation.
- 10.5 The rights and obligations under the Terms which by their nature should survive, including clauses 10 (suspension and termination), 13 (confidentiality) and 14 (intellectual property) shall survive after termination and/or acceptance of the Work.

ARTICLE 11. VARIATIONS AND REDUCTIONS

- 11.1 During the execution of the Order SMST may request or instruct Supplier to change or amend the Order or part thereof ("Variation"). Upon request or instruction thereof by SMST, Supplier shall perform the Work according to the Variation.
- 11.2 Supplier shall within 5 days from the request or instruction for Variation advise the SMST of the impact of a request for Variation with respect to the price, Delivery time and other terms. SMST shall pay Supplier for the Work performed under a Variation Order agreed upon between the Parties.
- 11.3 If it appears that the Supplier has not made the Delivery in accordance with the agreed Delivery, SMST may charge the Supplier for the reduction and may offset it against payments still to be made.

ARTICLE 12. FORCE MAJEURE

- 12.1 Any delays in or failures of performance by Supplier shall not constitute default, if and to the extent such delays or failures of performance are caused by occurrences of Force Majeure. Force Majeure under the Terms means a circumstance that is reasonably not within the control of Supplier and that could not have been overcome by the exercise of ordinary diligence, including but not limited to Acts of God, war, piracy, riots, epidemics, national strikes. Any unforeseen interruptions in the production or supply of goods or materials, a shortage of staff, the breakdown of machines or failure by sub-contractors and ancillary suppliers shall not constitute a Force Majeure event.
- 12.2 In claiming such Force Majeure event, Supplier shall notify SMST of this within 3 days and shall state what the anticipated consequences will be for its obligations under the Order.

ARTICLE 13. CONFIDENTIALITY

- 13.1 The term "Confidential Information" as used herein, means any and all information, whether disclosed verbally, digitally, visually, in writing or otherwise, prior of after the date of this Order and whether or not marked 'Confidential' or the like, such as without limitation drawings, sketches, specifications, engineering data, calculations, data sheets, models, reports, advices, including information relating to existing or proposed future business, inventions, solutions, operations or developments, technology, intellectual property, patents, copyrights, trademarks and financial information.
- 13.2 Supplier shall keep all Confidential Information strictly confidential and shall use such Confidential Information only for the execution of the Work. Supplier may disclose the Confidential Information, as necessary, only to those members of the Supplier Group who may reasonably need to know the Confidential Information for the execution of the Work, subject to the confidentiality obligations as set out in the Terms. Any Confidential Information is and at all times remains the property of SMST and upon request Supplier shall promptly return all Confidential Information to SMST.
- 13.3 Without prejudice to any other rights and remedies otherwise available to SMST at law, the Supplier acknowledges that any available remedies may be inadequate to protect SMST against any actual or threatened disclosure of Confidential Information, and that SMST shall be entitled to file for injunctive relief without proof of actual damages. The Supplier shall be liable for and hold harmless SMST for any breach of this clause.
- 13.4 The obligations of Supplier with regard to Confidential Information will not apply to Confidential Information: i) that is now in or hereafter enters the public domain without a breach of these Terms by Supplier or its representatives, ii) known to Supplier prior to the time of disclosure by SMST, iii) that is obtained by Supplier, after the date hereof, from any Third Party that is lawfully in the possession of Confidential Information, but only if such disclosure of Confidential Information to it does not violate any contractual or legal obligation to SMST on the part of such Third Party or vice versa, iv) that is required or requested to be disclosed by court order, subpoena, data request or other legal process or by court order or a request by regulatory authorities. In the event as per article 13.4 paragraph iv Supplier shall immediately provide SMST with detailed written notice of any such request or requirement so that SMST may seek a protective order, injunctive relief or any other appropriate remedy.

ARTICLE 14. INTELLECTUAL PROPERTY

- 14.1 Any concept, design or (other) intellectual property rights, including but not limited to any patents, copyrights, database rights, design rights, know-how, models, trademarks and trade secrets or rights in Confidential Information, whenever and however arising, for their full term and including any applications divisions, reissues, re-examinations, continuations, continuations-in-part and renewals thereof ("Intellectual Property Rights"), arising from the Work shall vest solely with SMST. Supplier shall provide all reasonable assistance in assigning such rights to SMST. Parties agree that nothing in these Terms shall be deemed to grant Supplier any license or any other rights to any current or future intellectual property rights of SMST.
- 14.2 If Supplier incorporates its own Intellectual Property Rights in the Work, it grants SMST Group an irrevocable, perpetual, worldwide, non-exclusive and transferable license to use these rights without any limitation.
- 14.3 Supplier is responsible for ensuring that the Work does not infringe the Intellectual Property Rights of Third Parties. Supplier shall indemnify and hold harmless SMST and its clients against any and all such claims and costs which may be made against SMST, or its clients, including but not limited to legal fees in defending such claims.

ARTICLE 15. COMPLIANCE

- 15.1 Supplier herewith acknowledges that in carrying out its business activities it complies with the generally accepted standards of business ethics and conduct, and in particular, that: i) it abides by the principles of the OECD Convention on Combating Bribery in International Business transactions, as well as the relevant applicable law resulting from such convention including, the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act; ii) in private business dealings with the public or government sector it does not, directly or indirectly, give, offer or agree to offer, or receive, any bribe or commit or attempt to commit any other corrupt act anywhere in the world; and iii) it shall not offer, promise or give a financial or other advantage and request, or agree to receive, or accept a financial or other advantage.

ARTICLE 16. APPLICABLE LAW AND RESOLUTION OF DISPUTES

- 16.1 The Terms and any Orders issued hereunder shall be subject to the laws of the Netherlands. The applicability of the United Nations Convention on Contracts for the International Sales of Goods (1980) is explicitly excluded.
- 16.2 Any disputes that may arise between SMST and Supplier in connection with an Order, which cannot be amicably settled, shall be exclusively brought before the competent court in Leeuwarden, The Netherlands.