

## General Delivery Terms and Conditions CERTIFER Netherlands B.V. Version May 2015

The user of these General Delivery Terms and Conditions is CERTIFER Netherlands B.V., having its registered office in Utrecht. These General Delivery Terms and Conditions are available on request and are deposited at the Chamber of Commerce in Utrecht under number: 27141477.

### § 1 General

#### provisions Article 1 -

##### Definitions

The concepts mentioned in this article are understood to have the following meaning in these General Terms and Conditions.

- CERTIFER Netherlands B.V., having its registered office in Utrecht;
- General Terms and Conditions: The General Delivery Terms and Conditions of CERTIFER Netherlands B.V. as lastly deposited at the Chamber of Commerce in Utrecht;
- Alignment: The execution of activities required in order to have a measuring means or reference material operate in such accurate manner that the measuring means or reference material is suitable for the user purpose;
- Assignment: The agreement to deliver Goods and/or Services concluded by and between CERTIFER Netherlands B.V. and the Customer;
- Auditing: The screening and/or examination of the execution of projects and/or other operating processes on account of an Assignment and such in the broadest sense of its meaning;
- Calibration: The determination of the scope of the deviations of a measuring means or reference material compared with the applicable standard and/or the determination of other metrological characteristics of a measuring means or reference material;
- Customer: The counterparty of CERTIFER Netherlands B.V.;
- Goods: All the products delivered and/or to be delivered to the Customer by CERTIFER Netherlands B.V. on account of an Assignment, such to include but not limited to documentation, drawings, test equipment and software.
- Repair: The resolution of mechanical and/or electronic defects and/or failures in a measuring instrument.
- Services: The services carried out and/or to be carried out by CERTIFER Netherlands B.V. for the benefit of the Customer in the broadest sense of its meaning.

##### Article 2 - Applicability

- 2.1 The General Terms and Conditions apply to all proposals and offers presented by CERTIFER Netherlands B.V. and/or Assignments and/or other agreements concluded by and between the Customer and CERTIFER Netherlands B.V., unless explicitly otherwise agreed upon in writing.
- 2.2 Applicability of general terms and conditions of the Customer and/or third parties is hereby explicitly repudiated.
- 2.3 Deviation from the General Terms and Conditions shall only be admitted in the event this has been explicitly agreed in writing between parties.
- 2.4 In case of invalidity or otherwise inapplicability of (any part of) one or more provisions of these General Terms and Conditions, the other provisions shall remain in full effect. As the case may be, actions shall, as much as possible, be in accordance with the

scope of the invalid or inapplicable provision. The parties shall forthwith consult each other in order to rectify the occurred deficiency.

##### Article 3 - Proposals and samples by CERTIFER Netherlands B.V.

- 3.1 Proposals made and/or offers presented by CERTIFER Netherlands B.V. are not binding and are valid for a period of thirty days following the date of the proposal/offer in question.
- 3.2 CERTIFER Netherlands B.V. may rely on the correctness and completeness of information, drawings, specifications, documentation and other information provided to CERTIFER Netherlands B.V. by the Customer within the framework of the Assignment and/or for the benefit of the preparation of a proposal or offer.
- 3.3 In the event the confirmation of acceptance provided by the Customer deviates – whether or not on subordinate issues - from the offer included in the proposal, CERTIFER Netherlands B.V. shall not be bound by the Customer's confirmation. In that event the contract is on the basis of the offer or proposal provided by CERTIFER Netherlands B.V., unless otherwise agreed in writing by CERTIFER Netherlands B.V..
- 3.4 In the event CERTIFER Netherlands B.V. has provided a composed price estimate this does not oblige CERTIFER Netherlands B.V. to deliver a part of the Goods included in the proposal or offer against a pro-rata parte corresponding part of the indicated price.
- 3.5 In the event a sample (including but not limited to drawings, models and examples) has either been demonstrated or provided to the Customer the same is assumed to merely have been provided as an indication. No warranty whatsoever is provided that the Goods to be delivered have the same characteristics as the sample. The aforementioned shall only be otherwise in the event of an explicit written agreement between parties. Samples are merely provided by CERTIFER Netherlands B.V. within the Assignment provided to her to test and/or to inspect and/or to certify and/or to investigate.

##### Article 4 - Conclusion of the agreement

- 4.1 An Assignment comes into existence:
  - a) Upon CERTIFER Netherlands B.V. confirming in writing the acceptance of the written order of the Customer, alternatively
  - b) Upon the Customer accepting in writing the offer provided by CERTIFER Netherlands B.V. as provided, alternatively
  - c) by execution of the offer by CERTIFER Netherlands B.V., in which event the Assignment is on the basis of the offer provided by CERTIFER Netherlands B.V..
- 4.2 Verbal arrangements are not binding, unless they are confirmed by CERTIFER Netherlands B.V. in writing.
- 4.3 Amendments to an Assignment are only valid if same have been agreed and confirmed in writing

between the customer and CERTIFER Netherlands B.V..

#### **Article 5 - Compensations and prices**

- 5.1 All prices and fees mentioned and/or used by CERTIFER Netherlands B.V. are exclusive of value added tax (VAT) and ex-clusive of additional costs, such to include but not lim-ited to dispatch and transport, insurances, travel and sojourn expenses.
- 5.2 Unless explicitly otherwise agreed upon in writing, the compensation charged to the Customer by CERTIFER Netherlands B.V. on account of Services provided and/or to be provided shall be calculated and invoiced monthly on the basis of actual costs, by multiplying the number of hours worked by the hourly fee agreed upon by and between the parties.
- 5.3 CERTIFER Netherlands B.V. is entitled to either charge a fixed amount or a percentage of the expected total amount of the compensation for the Assignment in advance or pending the Assignment and/or to request a bank guarantee for the entire expected total amount for the Assignment.
- 5.4 In the event any of the price determining factors increases CERTIFER Netherlands B.V. is authorised to charge this in-crease to the Customer. If and insofar this kind of price increase occurs within a period of three months following conclusion of the Assignment, the Customer shall be entitled to (either wholly or partly) terminate the Assignment, unless the aforementioned price in-crease can, in fairness, not justify the termination. In the event of a termination of the Assignment by the customer for the aforementioned reason, The cus-tomer remains under the duty to compensate CERTIFER Netherlands B.V. for any and all serviced provided upto the mo-ment of termination of the Assignment.
- 5.5 CERTIFER Netherlands B.V. shall be authorised to periodically amend the prices and the fees. Within three weeks following notification of the price increase, the Cus-tomer may provide written notice of disagreement to CERTIFER Netherlands B.V. in which event CERTIFER Netherlands B.V. and the Cus-tomer shall enter into proper consultation with each other in order to discuss the price and/or fee in-crease. In case the Customer does not react to the price and/or fee change within the aforementioned deadline, the Customer shall be considered to have agreed to same.
- 5.6 In the event CERTIFER Netherlands B.V. expects that additional work or less work may occur, CERTIFER Netherlands B.V. shall forthwith communicate this to the Customer after which the Customer shall, within two weeks following notifica-tion, provide its written consent to the additional or less work. In case the Customer does not react within this deadline, the Customer shall be considered to have waghered with the more/less work. In the event of additional/less work that is less than 5% of the to-tally agreed and/or expected compensation for the Assignment or, if less, to less than EUR 1,500.00 this notification can be omitted and the Customer is held to consent to the additional/less work.

#### **Article 6 - Payment and invoicing**

- 6.1 Unless parties have agreed otherwise in the Assign-ment, the deadline for payment of invoices of CERTIFER Netherlands B.V. is 30 days counting from invoice date. Payments must be made on the

- bank account number indicated on the invoice.
- 6.2 Payments must be done without any set off or the customer withholding payment for any reason what-soever.
- 6.3 Any and all the claims of CERTIFER Netherlands B.V. against the Customer are immediately due and payable in the event of:
- the agreed payment term having been exceeded;
  - the Customer, despite a reminder thereto, being in default with regard to fulfillment of its obligations on account of the Assignment;
  - the Customer is declared bankrupt or a petition thereto has been filed;
  - the Customer obtained suspension of payment of a request thereto has been filed;
  - the Customer files a request for the application of a debt refinancing scheme;
  - the Customer is placed under receivership or trustee-ship;
  - an enforceable attachment is vested on an im-portant part of the assets of the Customer or a conservatory attachment on the same is not cancelled within a period of two months;
  - the Customer is either wholly or partly liquidated or dissolved or partly discontinues its activities, or
  - CERTIFER Netherlands B.V. discontinues or transfers its activities.
- 6.4 In case an outstanding payment is not received within the agreed payment term or within the term men-tioned in article 6.1, the Customer is under the duty to pay CERTIFER Netherlands B.V. monthly interest over the outstand-ing principal amount up to the moment on which the complete principal amount is paid. CERTIFER Netherlands B.V. is en-titled to claim interest on the basis of art 6:119a DCC (Dutch Civil Code). A part of a calendar month is considered a full month upon calculation of the paya-ble interest.
- 6.5 In the event the customer fails to pay within the appli-cable deadline for payment, the Customer is, in addi-tion to interest and all other judicial costs, also held to pay extrajudicial debt collection costs the amount of which shall be determined in accordance with rules of law.
- 6.6 Payments made by the Customer firstly is considered payment of (debt collection costs), secondly payment of interest and lastly payment of the principal amount due.

#### **Article 7 - Delivery times and delivery location**

- 7.1 The delivery times and other deadlines mentioned by or on behalf of CERTIFER Netherlands B.V. are indicative only. The delivery times and other deadlines shall, to the best of its abilities, be established by CERTIFER Netherlands B.V. and may be approximate and shall never apply as fatal deadlines.
- 7.2 In case of an (imminent) exceeding of the aforemen-tioned deadlines, CERTIFER Netherlands B.V. shall contact the Cus-tomer as soon as reasonably possible. The Customer and CERTIFER Netherlands B.V. then enter into consultation in order to establish new deadlines and/or agree on further ar-rangements.
- 7.3 The delivery time commences at the moment CERTIFER Netherlands B.V. has available all the information, drawings, doc-umentation and other information to be made availa-ble by the customer and agreement has been reached on all the details of the Assignment.

- 7.4 The delivery time is extended by the period during which the Customer is in default to:
- provide the required information, drawings, documentation and/or other required information;
  - pay any sums due on account of the Assignment;
  - provide a bank guarantee or other security, in the event CERTIFER Netherlands B.V. has requested for such guarantee or security.
- 7.5 Deliveries of Goods take place ex works (in conformity-with the Incoterms 2013).
- 7.6 The Customer is held to take delivery of Goods without any delay at the moment CERTIFER Netherlands B.V. arranges for delivery or at the moment the Goods are made available to the Customer in accordance with the Assignment.
- 7.7 In the event the Customer refuses to take delivery (partially or entirely), or , alternatively, in the event the customer fails to provide adequate information to CERTIFER Netherlands B.V. to arrange for delivery, CERTIFER Netherlands B.V. shall be authorized to store the Goods at the expense and risk of the Customer.
- 7.8 CERTIFER Netherlands B.V. reserves the right to deliver the Goods in parts, unless otherwise agreed upon in writing. CERTIFER Netherlands B.V. shall in that case be authorized to issue separate invoices in relation to part deliveries made.

#### **Article 8 - Examination and complaints**

- 8.1 At the moment of delivery the Customer is held to examine (or have examined) as to whether the quantity of the Goods delivered is in conformity with that which has been agreed upon. Should the quantity of the Goods not conform to what has been agreed upon, the Customer shall communicate same to CERTIFER Netherlands B.V. within the deadline mentioned in 8.2, failing which it is assumed that the quantity of the Goods is in conformity with what has been agreed upon.
- 8.2 The customer shall at the time of delivery or within due time after delivery examine whether the Goods are in in conformity with specifications agreed or, in absence of such specifications, whether the Goods are within customary quality standards.
- 8.3 Any presumed non-conformity of the Goods must be notified in writing by the Customer to CERTIFER Netherlands B.V. within three (3) days counting from the date of delivery, failing which it is assumed that the delivered Goods are in accordance with that which has been agreed upon.
- 8.4 Presumed non-conformity of the Goods not visible upon global external inspection should be reported to CERTIFER Netherlands B.V. in writing within 14 days counting from the moment of discovery three days following delivery, failing which it is assumed that the delivered Goods are in accordance with that which has been agreed upon.
- 8.5 If, in accordance with the provisions set forth in this article, a complaint is timely submitted, the Customer shall nevertheless remain under the duty to take delivery and pay for the Goods.
- 8.6 Return shipments are only accepted by CERTIFER Netherlands B.V. in the event of prior writing approval by CERTIFER Netherlands B.V.. CERTIFER Netherlands B.V. shall be authorised to accept return shipments only if certain conditions are met. Return shipments shall be handled in a manner indicated by CERTIFER Netherlands B.V. or, failing the same, by means of a duty paid shipment. Furthermore return of shipments is at the expense and risk of the Customer. A return shipment must be

indicated with the reason for the re-turned shipment. Approval of CERTIFER Netherlands B.V. of a re-turned shipment shall by no means imply any acknowledgement of any liability whatsoever and on whatever grounds.

- 8.7 Complaints as referred to in this article do not suspend the duty of the Customer to timely pay the purchase price.

#### **Article 9 - Designs, materials, samples and other information of the Customer**

- 9.1 The Customer warrants that data, specifications, calculations, drawings, documentation, samples, materials, designs and all other objects and information provided by her to CERTIFER Netherlands B.V. are of sufficient quality and standard, such to enable CERTIFER Netherlands B.V. to perform its services. In the event this would prove otherwise, the customer is liable towards CERTIFER Netherlands B.V. for damages. The customer also warrants that in the event the Customer has prescribed the use by CERTIFER Netherlands B.V. of certain materials, aids or production methods, that these are adequate to let CERTIFER Netherlands B.V. perform its duties under the Assignment.
- 9.2 CERTIFER Netherlands B.V. shall not be liable for any damages whatsoever (such to include but not limited to delay damages) resulting from none, untimely, incorrect, in-complete, insufficient and/or qualitatively insufficient supply of the items referred to in paragraph 1 of this article, whatever the cause of the defective supply.
- 9.3 The Customer warrants that no rights or claims of third parties are vested on the items provided to CERTIFER Netherlands B.V. by or on behalf of the same as intended by paragraph 1 of this article (such to include intellectual or industrial property rights) and that the same including the tools on which electronic records have been stored are free of viruses.
- 9.4 The Customer indemnifies CERTIFER Netherlands B.V. against any and all claims of third parties with regard to the use of items as intended by paragraph 1 of this article made available by or on behalf of the Customer.
- 9.5 In case the Assignment (also) extends to the examination of samples, the selection, representativeness, code indications, brand or product names and the availability to CERTIFER Netherlands B.V. (such to include but not limited to the transport) of the samples to be examined take place at the expense and risk of the Customer.

#### **Article 10 - Intellectual and industrial property rights**

- 10.1 Unless explicitly otherwise agreed upon in writing, all possible intellectual or industrial property rights as well as similar rights regarding or connected to the items delivered and/or rendered available to the Customer by CERTIFER Netherlands B.V. and/or items (such to include but not limited to offers, sketches, films, designs, (technical) drawings, descriptions, indication of dimensions, software, (electronic) files, data (base), calculations, (system) designs, methods, reports, in-formation and other materials and items) accomplished, developed and/or used by CERTIFER Netherlands B.V. or activities or services carried out for the benefit of the Customer or third parties are exclusively vested in CERTIFER Netherlands B.V.,

- regardless of costs being charged to the Customer for the manufacture thereof.
- 10.2 All items, such to include but not limited to software and (electronic) files, rendered available by CERTIFER Netherlands B.V. are exclusively meant to be used by the Customer and can neither be duplicated, disclosed or rendered available to third parties by the same nor can the intellectual or industrial property of CERTIFER Netherlands B.V. otherwise be infringed, unless the nature of the provided items allows otherwise.
- 10.3 The Customer indemnifies CERTIFER Netherlands B.V. against any and all claims of third parties on account of alleged infringements of intellectual or industrial property rights with regard to all the items, software, pictures, documentation and other information and material used by CERTIFER Netherlands B.V. within the framework of the execution of the Assignment rendered available to CERTIFER Netherlands B.V. by the same.
- 10.4 The Customer is not allowed to duplicate, disclose and/or trade the items mentioned in this article with-out the explicit prior approval in writing of CERTIFER Netherlands B.V.. Upon violation of this provision the Customer shall forfeit an immediately claimable penalty of EUR 25,000.00 per violation which can be claimed by CERTIFER Netherlands B.V. in addition to the statutory and contractual compensation for damages.
- 10.5 The Customer is not allowed to remove or change any marks relating to intellectual or industrial property and similar rights from the items as intended by this article rendered available to the same, such to include indications regarding origin, the confidential nature and confidentiality.
- 10.6 On the first request of CERTIFER Netherlands B.V. thereto, the Customer should return all the items as intended by this article rendered available to the same by CERTIFER Netherlands B.V. to CERTIFER Netherlands B.V. within the indicated deadline or, in the absence thereof, within ten working days following the request. Upon violation of this provision the Customer shall forfeit an immediately claimable penalty of EUR 1,000.00 per calendar day the violation continues up to a maximum of the agreed price of the performance. The penalty may be claimed in addition to the statutory and contractual compensation for dam-ages.
- Article 11 - Rights on results**
- 11.1 Within the framework of the Assignment the Customer has the complete and free right to use the results of the Assignment, as provided to the Customer by CERTIFER Netherlands B.V., unless it concerns confidential information within the definition of these General Terms and Conditions.
- 11.2 CERTIFER Netherlands B.V. is entitled to also use the results, as referred to in this article, for the benefit of third parties and to have the same used by third parties, unless the parties agree otherwise.
- 11.3 CERTIFER Netherlands B.V. is entitled to publish the results of the Assignment(s) and to hold lectures about projects carried out at the request of the Customer, provided this has been approved by the customer, who shall not withhold its approval on unreasonable grounds.
- 11.4 If the Customer obtains a patent on the basis of the

result, the Customer shall, free of charge, grant a nontransferable license on the relevant invention to CERTIFER Netherlands B.V..

**Article 12 - Duration and interim termination**

- 12.1 The Assignment is entered into either for an indefinite period of time, alternatively for the fixed time agreed in the Assignment, alternatively up to the moment the activities are completed.
- 12.2 Each of the parties may terminate an Assignment for an indefinite period of time by means of a registered letter, taking into account a notice period of three months.
- 12.3 An Assignment for a fixed time can, can, save as defined hereinafter, not be terminated before expiry of the agreed fixed time, whilst furthermore such Assignment is considered extended for a further fixed period of continued after expiry of the initial agreed fixed period unless at the latest two months prior of the expiry date one of the parties terminates by means of a registered letter.
- 12.4 Unless otherwise determined elsewhere, dissolution of the Assignment on the basis of non-performance by either party can only be effected after a proper written notice of default has been sent to the other party notifying the other party of the non-performance and demanding the other party to repair the non-performance within a reasonable deadline.
- 12.5 CERTIFER Netherlands B.V. is entitled to either terminate the Assignment with immediate effect by means of a written notification without (further) prior notice of default or without judicial intervention being required or to sus-pend its obligations on account of the Assignment if:
- the Customer fails the fulfilment of any of its obligations; or
  - the Customer remains in default with regard to an obligation deriving from the Assignment to provide a payment guarantee determined by CERTIFER Netherlands B.V.;
  - the Customer is declared bankrupt or a petition thereto was filed;
  - the Customer obtained suspension of payment or a request thereto was filed;
  - the Customer files a request for application of a debt refinancing scheme;
  - the Customer is placed under receivership or trusteeship;
  - an enforceable attachment is vested on an important part of the assets of the Customer or a conservatory attachment on the same is not can-celled within a period of two months;
  - the Customer is either wholly or partly liquidated or dissolved or partly discontinues its activities; or
  - CERTIFER Netherlands B.V. discontinues or transfers its activities.
- 12.6 In case of dissolution or suspension of the Assignment pursuant to the preceding paragraph of this article CERTIFER Netherlands B.V. shall never be held to pay any compensation for damages or payment to the Customer, without prejudice to the right of CERTIFER Netherlands B.V. to claim compensation for damages on account of non-fulfilment by the Customer of its obligations.
- 12.7 In case dissolution by CERTIFER Netherlands B.V. takes place pursuant to this article, as a result of this dissolution all amounts due to CERTIFER Netherlands B.V. by the Customer are immediately payable.

### **Article 13 - Liability**

- 13.1 Liability of CERTIFER Netherlands B.V. is limited to direct damages resulting from the non-performance of its obligations on account of the Assignment, unless the damages result from intent or gross negligence of the board of CERTIFER Netherlands B.V.. The total compensation for damages shall never exceed the amount paid by the liability insurer of CERTIFER Netherlands B.V., this amount being maximized to the monetary value of the Assignment. The total compensation for damages shall never exceed EUR 1,500,000.00 per (series of) event(s).
- 13.2 Liability for indirect or consequential damages (such to include but not limited to operational damages, de-lay damages and lost profit) is excluded unless caused by the intent or gross negligence of the board of CERTIFER Netherlands B.V.. This also applies to damages of the Customer caused to goods (Goods and other items) by or during the execution of the activities deriving from the Assignment by CERTIFER Netherlands B.V. on which work is carried out and/or which are located in the vicinity of the place where work is carried out, unless caused by intent or gross negligence of the board of CERTIFER Netherlands B.V..
- 13.3 CERTIFER Netherlands B.V. shall not be liable for damages, of what-ever nature, arising or resulting from the fact that CERTIFER Netherlands B.V. assumed incorrect and/or incomplete data or information provided by the Customer.
- 13.4 CERTIFER Netherlands B.V. shall not be liable for damages caused by the use or failure of information technology and other modern means of telecommunication, such to include but not limited to the failure of internet connections.
- 13.5 The Customer indemnifies CERTIFER Netherlands B.V. against possible claims of third parties on account of damages allegedly arising or resulting from the execution by CERTIFER Netherlands B.V. of the Assignment or arising or resulting from the operation of Services or Goods provided by CERTIFER Netherlands B.V., unless caused by intent or gross negligence of the board of CERTIFER Netherlands B.V..
- 13.6 CERTIFER Netherlands B.V. shall only be liable for shortcomings of a third party/third parties (sub)contracted by CERTIFER Netherlands B.V. if and insofar damages arising or resulting there from can be claimed from this third party/these third parties. CERTIFER Netherlands B.V. shall be authorized to, for and on behalf of the Customer, accept possible limitations of liability of a (sub)contracted third party/parties.
- 13.7 Condition for the occurrence of any right to compensation for damages is that the Customer, following occurrence of the damages, as soon as reasonably possible but by any means at least within 24 hours following discovery of the damages, reports the damages to CERTIFER Netherlands B.V. in writing and the Customer makes every reasonable effort to limit the damages as much as possible.

### **Article 14 - Force majeure**

- 14.1 In case force majeure circumstances prevent CERTIFER Netherlands B.V. from performing or performing in time under the agreed Assignment,

CERTIFER Netherlands B.V. shall, at its sole discretion, be entitled to either (either wholly or partly) suspend the execution of the Assignment or to (either wholly or partly) renounce the Assignment, such de-pending on the circumstances. In case of a situation of force majeure on the part of CERTIFER Netherlands B.V., the Customer shall not be entitled to compensation for damages.

- 14.2 Without prejudice to article 6:75 Dutch Civil Code and the relevant case-law, force majeure is understood to comprise any circumstance beyond the will and control of CERTIFER Netherlands B.V., which is of such nature that (whole or partial) compliance with the Assignment can reasonably not be expected of CERTIFER Netherlands B.V.. Force majeure is understood to comprise but is not limited to: fire, explosion, lightning, earthquake, extreme weather conditions, molestation, terrorism, nuclear accident, (threat of) war, riot, vandalism, embargo, transport issues, virus attacks and strikes of operational breakdown at CERTIFER Netherlands B.V. as also at its suppliers, external network issues, power failures and all other unusual daily events.
- 14.3 In case of force majeure CERTIFER Netherlands B.V. shall as soon as reasonably possible contact the Customer in order to impose reasonable measures to limit the damages for the parties involved, which shall be done in mutual consultation and in consideration of the rules of good faith.
- 14.4 During the period the force majeure continues the parties can suspend the obligations on account of the Assignment. In case this period lasts longer than six months each of the parties shall be entitled to dissolve the agreement without the obligation to pay compensation for damages to the other party.
- 14.5 Insofar CERTIFER Netherlands B.V., at the time of the occurrence of force majeure, already partly complied with or shall comply with its obligations on account of the Assignment, CERTIFER Netherlands B.V. shall be entitled to separately invoice on interim basis that which has already been complied with respectively is to be complied with.

### **Article 15 - Non-competition**

- 15.1 On penalty of the forfeiture of a fine of EUR 30,000.00 payable to CERTIFER Netherlands B.V., the Customer shall not be allowed to enter into an employment agreement and/or a similar agreement with a (former) employee of CERTIFER Netherlands B.V. with whom the same has been in contact within the framework of the Assignment. The aforementioned applies for the entire duration of the Assignment and/or a period of 12 months thereafter, either directly or indirectly,. The fine can be claimed in addition to the statutory and contractual compensation for damages.

### **Article 16 - Reservation of title**

- 16.1 The title of all Goods and/or other goods otherwise delivered or to be delivered on account of the Assignment shall only transfer to the Customer after the same fully complied with all its obligations on account of the Assignment.
- 16.2 The Customer is neither authorized to encumber the goods on which a reservation of title is vested nor to transfer the ownership of the same nor to otherwise make use thereof other than insofar required within the framework of the Assignment.
- 16.3 The Customer shall keep the goods on which a reservation of title is vested as a prudent man and shall sufficiently insure the same against

- loss, fire and theft.
- 16.4 If CERTIFER Netherlands B.V. invokes the reservation of title, CERTIFER Netherlands B.V. shall be entitled to and the Customer hereby already irrevocably grants CERTIFER Netherlands B.V. permission to, at the expense of the Customer, take back the goods on which the reservation of title is vested and to for that purpose access the locations where the goods are located with the aim to take control over the goods.

#### **Article 17 - Confidentiality**

- 17.1 The parties shall back and forth abide by confidentiality with regard to all that which comes to their knowledge during the execution of the Assignment and shall not disclose this information to third parties unless and insofar this is required within the frame-work of the execution of the Assignment or to comply with a statutory obligation or judicial order thereto. The parties commit to stipulate a corresponding confidentiality clause with these third parties.
- 17.2 Documents, data carriers and/or company means received by one party from the other party shall re-main the sole property of this other party and should, following completion of the Assignment, be returned to the original owner or, upon request of the same, be destroyed.
- 17.3 Contrary to the previous provisions set forth in this article, CERTIFER Netherlands B.V. shall be entitled to mention the name of the Customer in press and publicity statements as well as an indication of the nature of the Assignment.

#### **Article 18 - Applicable law and competent Court**

- 18.1 Dutch law shall be exclusively applicable to the Assignment and to all agreements, proposals, offers and/or commitments deriving there from.
- 18.2 The applicability of the Vienna Sales Convention (to the extent the Assignment includes delivery of goods under a sales/purchase agreement) is hereby explicit-ly excluded as also of other international regulations of which exclusion is allowed.
- 18.3 In case of a dispute the parties shall first enter into consultation in order to examine as to whether the dispute can be solved amicably. In case the parties cannot reach an agreement, the Court in Utrecht has exclusive jurisdiction. On addition to that, CERTIFER Netherlands B.V. may sue the customer before any other court that has jurisdiction on the basis of normal rules of law.
- 18.4 This translation into English of the Dutch 'Algemene Leveringsvoorwaarden van CERTIFER Netherlands B.V.' is for reading purposes only. In case of a dispute between the parties the Dutch version shall prevail.

#### **Article 19 - Miscellaneous**

- 19.1 CERTIFER Netherlands B.V. commits to, as a good contractor, bring the Assignment to a good result.
- 19.2 CERTIFER Netherlands B.V. is authorized to have the Assignment either wholly or partly executed by third parties, such under the direct supervision of CERTIFER Netherlands B.V.. In that case the provisions set forth in these General Terms and Conditions shall equally apply to those third par-ties.
- 19.3 The Customer commits to timely and completely

inform CERTIFER Netherlands B.V. and the employee(s) appointed by CERTIFER Netherlands B.V. of all information, documentation and documents that are important during the execution of the Assignment and shall, on request of CERTIFER Netherlands B.V., provide further information as soon as reasonably possible.

- 19.4 The parties are not authorized to either wholly or partly transfer the rights or obligations on account of the Assignment to third parties, with the exception of the right of CERTIFER Netherlands B.V. to transfer claims deriving from the Assignment to a third party for collection purposes.

#### **Article 20 – Specific provisions depending on the nature of the Assignment - Calibration, alignment and repair of a measuring instrument**

- 20.1 The provisions included in this section apply to all proposals, offers made by CERTIFER Netherlands B.V. or Assignments and/or other agreements concluded by and between the Customer and CERTIFER Netherlands B.V. with regard to the (partial) supply of Services in the area of Calibration, Alignment and Repair of a measuring instrument. In the event of any discrepancy between the provisions of article 20 and the preceding provisions, the provisions of article 20 shall prevail.
- 20.2 The Customer should send the measuring means or reference material that is to be calibrated and/or aligned duty paid to CERTIFER Netherlands B.V..
- 20.3 After the Calibration, Alignment and/or Repair by CERTIFER Netherlands B.V. took place, the measuring means, reference material and/or measuring instrument is delivered to the Customer ex works or, in case the location of the Calibration, Alignment and/or Repair of a measuring instrument took place at another location, ex the location where the Calibration, Alignment and/or Repair took place.
- 20.4 The transport of the measuring means, reference material and/or measuring instrument takes places at the expense and risk of the Customer, regardless of the manner of transport and regardless of which party takes care of or organizes the transport.
- 20.5 Should it become apparent that the Calibration, Alignment and/or Repair of the measuring instrument did not take place properly, the Customer must, immediately following discovery thereof yet at the latest within one month after redelivery by CERTIFER Netherlands B.V. of the measuring instrument, return the measuring means, reference material or measuring instrument to CERTIFER Netherlands B.V. duty paid with reference to the reason of the returned shipment, on penalty of expiration of the right of the Customer to invoke the warranty. In case CERTIFER Netherlands B.V. observes that the Calibration, Alignment and/or Repair of the measuring instrument has, in-deed, not been carried out properly CERTIFER Netherlands B.V. shall free of charge take care of a new Calibration, Alignment and/or Repair of the measuring instrument.
- 20.6 The Customer can only invoke the warranty if and when the Customer has fully complied with all its obligations on account of the Assignment.
- 20.7 A warranty is not provided for failures resulting from:
- normal wear and tear;
  - change or repair by the Customer or by third parties;
  - injudicious use, such to include but not limited to inaccurate storage.

#### **Article 21 – Specific provisions depending on the nature of the Assignment – Auditing**

- 21.1 The provisions included in this section apply to

all proposals, offers made by CERTIFER Netherlands B.V. or Assignments and/or other agreements concluded by and between the Customer and CERTIFER Netherlands B.V. with regard to Auditing. In the event of any discrepancy between the provisions of article 21 and the preceding provisions, the provisions of article 21 shall prevail.

- 21.2 In case of CERTIFER Netherlands B.V. accepting an Auditing Assignment CERTIFER Netherlands B.V. shall commit to carry out the activities to the best of its knowledge and expertise, also in consideration of the state of the art at that moment, and thereby taking the accurateness that can and may be expected of CERTIFER Netherlands B.V. into account.
- 21.3 CERTIFER Netherlands B.V. determines in what way, with what auxiliary tools and by whom the Audit is carried out. In this context CERTIFER Netherlands B.V. shall, as much as possible, take the wishes of the Customer into account.
- 21.4 If and insofar Auditing is carried out at a location of the Customer, the employee(s) carrying out the Audit for CERTIFER Netherlands B.V. shall abide by the house rules of the Customer.

**Article 22 – Specific provisions depending on the nature of the Assignment – Information technology**

- 22.1 The provisions included in this section apply to all proposals, offers made by CERTIFER Netherlands B.V. or Assignments and/or other agreements concluded by and between the Customer and CERTIFER Netherlands B.V. with regard to Services or Goods provided in relation to Information technology. In the event of any discrepancy between the provisions of article 22 and the preceding provisions, the provisions of article 22 shall prevail.
- 22.2 The concepts mentioned in this article are understood to have the following meaning in these General Terms and Conditions.  
*Acceptance*: The approval of the Customer of (a part of) the CERTIFER Netherlands B.V. Software;  
*Acceptance Form*: The form to be signed by the Customer with the rest report as a result of the Acceptance Test as well as the (refusal of the) Acceptance;  
*Acceptance Test*: The test to be carried out and/or carried out by the Customer and CERTIFER Netherlands B.V. jointly in order to demonstrate that the Software complies with the agreed specifications;  
*Computer*: The computer(s) on which, in conformity with the Assignment, the Software is running and/or can run according to the user rights of the Customer; *Installation*: The installation of the Software on the equipment of the Customer;  
*Customized Software*: Software developed and/or to be developed by CERTIFER Netherlands B.V. for the benefit of the Customer, such to include changes of and additions to the Standard Software, including all thereto pertaining documentation and materials, as described in the Assignment;  
*Software*: The whole of Standard Software and Customised Software with the thereto pertaining documentation and materials;  
*Standard Software*: Software with the thereto pertaining documentation and materials as

described in the Assignment not being Customized Software;  
*Test Period*: The period as of the Installation up to the Acceptance.

- 22.3 The Customer acquires the non-exclusive and non-transferable right to use the Software. The Customer is neither allowed to (whether or not partially) sell, transfer, disclose or rent the Software and the possible carrier(s) on which the latter is stored nor to use the same within the framework of data processing for the benefit of third parties, grant a sub-licence and/or to grant limited rights thereto nor to, in any way whatsoever or for any purpose whatsoever, render the same available to a third party.
- 22.4 The Customer is not authorized to implement any changes in the Software, except if and insofar required for the repair of errors. The Customer shall forthwith inform CERTIFER Netherlands B.V. of any and all changes for the benefit of the repair of errors, upon presentation of the change(s).
- 22.5 The Software can exclusively be used by the Customer in its own company or organisation on the Computer and for a specific number and/or type of users and/or connections for which a written user right has been granted. Insofar nothing has been agreed upon in this context, the computer of the Customer on which the Software is installed the first time and the number of connections connected to this computer at the moment of the Installation are held to be the Computer respectively the number of connections for which the user right is granted. In case of a possible breakdown of the Computer it is allowed to use the Software on another computer for the duration of the breakdown, unless this implies a change in the allowed users and/or connections.
- 22.6 The user right can only regard multiple Computers insofar this is explicitly included in the Assignment.
- 22.7 Following termination of the user right the Customer shall forthwith return all copies of the (carrier(s) of the) Software in its possession to CERTIFER Netherlands B.V. and shall remove the Software of the Computer respectively of all processing units on which the Software has been installed.

**Article 23 - Information technology: Indemnity**

- 23.1 The Customer warrants that the software delivered by the same and/or the software running on the Computer(s) that is (are) used in connection with the execution of the Assignment are free of viruses.
- 23.2 The Customer warrants that it disposes of sufficient user rights for the software delivered by the same and/or the software running on the Computer(s) that is (are) used in connection with the execution of the Assignment and that these user rights also allow the use by CERTIFER Netherlands B.V. within the framework of the Assignment (such to include possible changes of the in-tended software).
- 23.3 The Customer indemnifies CERTIFER Netherlands B.V. against (alleged) infringements of intellectual property rights or similar rights of third parties vested on the software intended by this article.

**Article 24 - Information technology: Delivery and Installation**

- 24.1 Delivery of the Software either takes place by physical release by CERTIFER Netherlands B.V. to the Customer on a suitable data carrier or by Installation of the Software on one specific computer of the Customer. The Installation shall only take place if and insofar the Installation is agreed upon by CERTIFER Netherlands B.V. in writing.

- 24.2 The Customer and CERTIFER Netherlands B.V. conjointly carry out the Acceptance Test. The duration of this test and the criteria that the Software needs to comply with should be sufficiently specified in the Assignment. Following Acceptance the results thereof are established in an Acceptance Form that is signed by both parties.
- 24.3 If the Software complies with the stipulated criteria, the Customer accepts the Software. With this Acceptance CERTIFER Netherlands B.V. is deemed to have complied with its obligations on account of the Assignment.
- 24.4 In case the Acceptance Test demonstrates that the Software does not comply with the stipulated criteria this is mentioned on the Acceptance Form whereby it is indicated to what extent and with what criteria the Software does not comply. CERTIFER Netherlands B.V. then adjusts the Software to the aforementioned criteria with which the Software does not comply after which a new Acceptance Procedure follows.
- 24.5 The Customer shall not withhold its Acceptance in case of minor deviations that do not affect the functioning of the Software. CERTIFER Netherlands B.V. shall repair the-se kinds of deviations as soon as possible.
- 24.6 During the Test Period the Customer is not allowed to use the Software other than to test the Software.
- 24.7 If the Customer uses the Software during the Acceptance Procedure without prior Acceptance other than to test the Software, the Customer is deemed to have accepted the Software.
- 24.8 The Customer is responsible for the use and application of the Software in its organisation as also for the control and security procedures and adequate system management.
- 24.9 If (employee(s) of) CERTIFER Netherlands B.V. carry out activities on a location of the Customer, the Customer shall free of charge provide for the facilities reasonably requested by CERTIFER Netherlands B.V., such to include but not limited to work location(s), Electricity, telecom facilities and computer(s).

**Article 25 - Information technology: Back-up copy**

- 25.1 In case CERTIFER Netherlands B.V. secured the Software by means of a technical protection, the Customer is not allowed to remove and/or circumvent this security. In case the security does not enable the Customer to make a back-up copy of the Software, CERTIFER Netherlands B.V. shall, on request, render a back-up copy of the Software available to the Customer.
- 25.2 The Customer is only allowed to have one back-up copy in its possession. A back-up copy is understood to be a physical object on which the Software is stored with the exclusive objective of replacing the original copy of the Software in case of involuntary loss or damages.
- 25.3 The back-up copy should be identical and should always be provided with the same label and indications as the original copy.

**Article 26 - Information technology: Customized Software**

- 26.1 In case the Assignment includes (among other things) the development of Customized Software by or on behalf of CERTIFER Netherlands B.V. for the benefit of the Customer, the Assignment should specify the Customised Software that is

to be developed as also the criteria with which the Customised Software should comply.

- 26.2 Exclusively if and insofar this is agreed upon in writing in the Assignment:
- is the source code of the Customised Software and the technical documentation generated during the development of the Customised Software rendered available to the Customer;
  - is the Customer authorised to implement changes in the Customised Software; and/or
  - is the source code deposited at a specialised company (escrow).

**Article 27 - Information technology: Warranty**

- 27.1 CERTIFER Netherlands B.V. shall to the best of its abilities repair possible errors in the Software during a period of three months following delivery or, if the parties agreed upon an Acceptance test, during a period of three months following the Acceptance.
- 27.2 If it becomes apparent during the warranty period intended by paragraph 1 of this article that the Software contains errors that have an adverse effect on the functioning of the Software for which the Software was purchased, the Customer should forthwith contact CERTIFER Netherlands B.V.. In mutual consultation it is then determined which measures are required and who is to bear the associated costs. Instead of repairing the errors in the Software CERTIFER Netherlands B.V. may also opt to credit a proportional part of the invoice to the Customer.
- 27.3 The Customer can only invoke the warranty once the same complies with all its obligations on account of the Assignment.
- 27.4 A warranty is not provided for failures resulting from:
- unlawful or injudicious use of the Software;
  - mutilations or removals;
  - circumvention of securities;
  - change or repair by the Customer or by third parties.

**Article 28 – Specific provisions depending on the nature of the Assignment – Secondment**

- 28.1 The provisions included in this section apply to all proposals, offers made by CERTIFER Netherlands B.V. or Assignments and/or other agreements concluded by and between the Customer and CERTIFER Netherlands B.V. with regard to Secondment Services. In the event of any discrepancy between the provisions of article 28 and the pre-ceding provisions, the provisions of article 28 shall prevail.
- 28.2 Secondment is the Assignment by which CERTIFER Netherlands B.V. makes available to the Customer on ore more of its employees to perform services on the basis of directives of the Customer and under the order and directive of the Customer, against the duty of the customer to pay to CERTIFER Netherlands B.V. the agreed remuneration for the Secondment Services.
- 28.3 The employee(s) that is or are proposed by CERTIFER Netherlands B.V. to the Customer for Secondment, will be selected and proposed on the basis of the work specification, available budget, required expertise, duration of the Assignment as communicated by the Customer and furthermore in accordance with availability of CERTIFER Netherlands B.V. personnel. CERTIFER Netherlands B.V. shall present the pro-posed employee(s) to the Customer by means of a written profile presentation. The Customer may select on the basis on written profile presentation the candidate(s) who is or are to be interviewed. The preparation of the profile

- presentation(s) and the arranging of interview(s) is free of charge to the Customer.
- 28.4 A Secondment Assignment shall always include agreement between the Customer and CERTIFER Netherlands B.V. on the duration of the Secondment Assignment (the assignment always to be for a defined and fixed peri-od), the number of working hours, the Tariff and complementary arrangements shall as compensation of travel expenses of the candidate, compensation of other expenses such as the use of telephone and internet.
- 28.5 The Secondment period shall be fixed and cannot be shortened once agreed unless explicitly agreed otherwise. In the event the Customer terminated the Secondment before expiry of the agreed fixed period, the customer shall remain under the duty to pay to
- CERTIFER Netherlands B.V. the agreed secondment tariff for the full remaining period with a maximum of 31 days counting from the day the Customer tenders written notice of termination upon CERTIFER Netherlands B.V..
- 28.6 In the event the Customer feels it has a complaint on the services provided by the CERTIFER Netherlands B.V. employ-ee(s) seconded to the Customer, the customer shall discuss the complaint with the seconded employee(s) first. If this does not result in the complaint being re-solved, the customer shall report the complaint in writing to CERTIFER Netherlands B.V.. If the complaint is or cannot be resolved after discussion between Customer and CERTIFER Netherlands B.V., the customer shall notify in writing to CERTIFER Netherlands B.V. if it desired that the seconded employ-ee(s) is/are replaced. In such event CERTIFER Netherlands B.V. shall be granted a period of 14 days, counting from the moment of receipt of the aforementioned written no-tice of the Customer, to select replacement employ-ee(s). Only if CERTIFER Netherlands B.V. does not succeed the customer is entitled to terminate the Secondment Assignment with immediate effect, in which case the customer shall not be under the duty to pay further Secondment tariff from
- 28.10 be established that the actual activities performed by the person seconded bring about heavier responsibility that envisaged upon the job description and particulars provided by the Customer before commencement of the Assignment, CERTIFER Netherlands B.V. is entitled, upon proper consultation with the customer, to adjust the secondment tariff. The customer shall pay the adjusted secondment tariff from the moment the job changed . If during the Assignment the job of the person seconded changes to the effect that the job is lighter classified, CERTIFER Netherlands B.V. shall remain entitled to the originally agreed Secondment tariff.
- 28.11 CERTIFER Netherlands B.V. shall issue invoices in relation to the Secondment Assignment on the basis of the time sheets signed by the customer that shall be binding on the customer. CERTIFER Netherlands B.V. shall issue its invoices at the end of each calendar month and will charge in accordance with actual hours spent, taking into ac-count any minimum tariff agreed.
- 28.12 On order to fulfil its duty as employer of the seconded person(s), CERTIFER Netherlands B.V. must be able to rely on the support of the customer. This applies to termination of the Secondment
- the moment of such termination.  
The customer shall, upon tendering the Assignment specifications, a description of the job and particulars that the candidate shall fulfil and comply with. If so requested by CERTIFER Netherlands B.V., the Customer shall provide adequate evidence that the job description and particulars comply with the work they actually shall be done by the candidate. The job description and particulars may be varied during execution of the Secondment Assignment if so desired by the customer and provided the CERTIFER Netherlands B.V. employee seconded is consulted.
- 28.7 Work and rest time of the CERTIFER Netherlands B.V. employee seconded shall be as customary with the customer, unless otherwise agreed. The number of working hours shall be specified in the Assignment, which shall be an average number. The actual hours spent will be recorded by means of a time registration form. Overtime will be charged by CERTIFER Netherlands B.V. against the overtime charge agreed in the Assignment.
- 28.8 In the event the CERTIFER Netherlands B.V. employee(s) seconded become(s) ill, CERTIFER Netherlands B.V. shall, if so desired by the customer, arrange for a replacement of similar level, if feasible. The CERTIFER Netherlands B.V. employee seconded shall not take any holiday during the first two months of the Secondment unless the Customer approves same. Holidays will always be planned in good consultation between the customer and the CERTIFER Netherlands B.V. employ-ee(s) seconded.
- 28.9 Unless agreed otherwise in writing the hourly tariff shall be fixed for the duration of the Secondment. The tariff shall comprise the salary enjoyed be the person seconded and the secondment fee, as well as additional elements like travel expenses, telephone expenses if and to the extent agreed. Ther customer shall not pay and salary tax or social premiums.  
If at any time during the Secondment it shall

Assignment at the request of the Customer or legislation relating to maximum working hours. Upon first demand of CERTIFER Netherlands B.V., the customer shall render full cooperation to CERTIFER Netherlands B.V. and will supply CERTIFER Netherlands B.V. with any and all information it requires.

- 28.13 CERTIFER Netherlands B.V. is under no liability whatsoever towards the customer for any damage or loss caused by the person seconded to the customer or any third party.
- 28.14 The Customer shall indemnify CERTIFER Netherlands B.V. for any and all liability and claims, directed against CERTIFER Netherlands B.V. as employer of the person seconded or in any other capacity whatsoever, arisen or resulting from the services or work provided by the person second-ed within the organization of the Customer.
- 28.15 The Customer shall assume responsibility on providing directives and supervision as to the services carried out by the person seconded. The Customer has the duty to provide for adequate and safe working conditions to the seconded person. The customer shall be solely responsible for the services carried to, for safety at work and that any and all rules and regulations relating to safe working conditions shall be fully applied.
- 28.16 The person seconded is actually assigned to work at the premises of the customer, but no contract of employment or otherwise exist between these two. In the event of a Secondment Assignment two contractual relationships exist. On the one hand the contract between the seconded person and CERTIFER Netherlands B.V. and on the other hand the Assignment between CERTIFER Netherlands B.V. and the Customer. The customer shall refrain from entering into a contract of employment with any secondment candidate or seconded person or to make use of this persons outside the scope of the Secondment Assignment.
- 28.17 If the Customer upon competition of the (extended) Secondment Assignment the customer would desire to enter into a contract of employment with the seconded person, or to make use of the services of this person in any other way, the customer shall notify CERTIFER Netherlands B.V. in writing. In such event the Customer shall pay compensation to CERTIFER Netherlands B.V.. This compensation shall be agreed upon in the Assignment. The level of compensation shall vary and be dependent on the time the persons seconded was or shall be seconded to the Customer.
- 28.18 Information provided by customer to CERTIFER Netherlands B.V. shall be treated by CERTIFER Netherlands B.V. as confidential. CERTIFER Netherlands B.V. shall be bound to make a similar confidentiality agreement with the person seconded.
- 28.19 All information provided to the Customer in relation to proposed candidates shall be treated by the customer as strictly confidential. The customer shall not be entitled to provide such information to third parties or to publish same, unless CERTIFER Netherlands B.V. has approved same in writing.