

## **ARTICLE 1: DEFINITIONS**

### **"General terms and conditions"**

These general terms and conditions from SIMPOINT B.V.

### **"Effective date"**

Refers to the date on which the order form is signed by the CLIENT.

### **"CLIENT"**

Every natural or legal person to whom SIMPOINT has addressed an offer, as well as those by whose assignment services of any nature are requested from SIMPOINT, or with whom SIMPOINT enters an agreement into, among which an agreement of assignment, an agreement of contracting of work or a purchase agreement, as well as those who hold a legal relationship of any kind with SIMPOINT.

### **"Agreement"**

Any agreement realised between SIMPOINT and the CLIENT, every change or supplement to that, as well as (legal) acts in preparation and in execution of that agreement.

### **"SIMPOINT"**

The limited liability company SIMPOINT B.V., with registered office and place of business in (5633 AD) Eindhoven at Esp 237.

## **ARTICLE 2: GENERAL**

1. These General Terms and Conditions shall be applicable to any and all offers and/or quotations by SIMPOINT as well as to all agreements entered between SIMPOINT and the CLIENT. They shall also apply to all commitments resulting from future agreements entered between parties.

2. The applicability of possible purchasing terms and conditions or any other terms and conditions of the CLIENT is expressly denied.

3. If one or more provisions from the General Terms and Conditions are null or voided, the remaining provisions shall remain applicable completely. SIMPOINT and the CLIENT shall then enter into consultation in order to agree to new provisions to replace the null or void provisions, where the aim and scope of the original provision shall be observed as much as possible. The invalidity of a provision shall not lead to invalidity of the entire Agreement and/or General Terms and Conditions.

## **ARTICLE 3: CONTENT OF THE AGREEMENT**

1. If the CLIENT wants to be certain the good/the performance is suitable for a particular use as intended by the CLIENT, he has to inform SIMPOINT in detail with regard to this prior to the establishment of the Agreement, and the suitability for that particular use has to be agreed in writing. The CLIENT shall bear the risk regarding the incorrect transfer of data.

2. The scope of what SIMPOINT is to deliver or achieve, shall be determined by which has been laid down in the Agreement, which includes the specifications which SIMPOINT has communicated.

3. Unless parties agree otherwise in writing, the goods delivered and to be delivered shall be delivered and processed in normal commercial grade. Here shall apply that minor changes (for instance minor changes in models and technical specifications) shall not prevent SIMPOINT's achievement of the Agreement.

4. SIMPOINT is entitled at all times and without prior notice to (temporarily) block access to the product and/or service or (temporarily) switch off certain functions of the product and/or service, in so far as this is essential for maintenance or to realize (necessary) updates/improvements of the product. During the temporary unavailability of the product and/or service the CLIENT shall not be entitled to damages from SIMPOINT. SIMPOINT shall do its

utmost to restrict possible inconvenience in these cases and shall – if possible – timely notify the CLIENT.

5. SIMPOINT shall not be liable for any damages, of whatever nature, if SIMPOINT has based herself on incorrect and/or incomplete data supplied by the CLIENT.

6. The CLIENT safeguards SIMPOINT against any possible claims by third parties that incur losses in relation to the execution of the Agreement and the cause of which damages can be attributed to SIMPOINT.

## **ARTICLE 4: DURATION AND TERMINATION**

1. The Agreement shall come into effect on the date it is signed and shall expire after the indicated term. After this term the Agreement shall automatically be extended monthly for a consecutive period of one (1) month, unless the CLIENT notifies SIMPOINT in writing of his intention to not extend the Agreement at least one (1) month prior to the date on which the Agreement would otherwise be extended.

2. The duration for each separate SIM card/LoRa Key is set out in the Agreement. The standard term is 12 months unless agreed otherwise in writing. This term takes effect the moment the SIM card is activated but no later than 3 months after date of dispatch unless agreed otherwise in writing. After this term, the term of the SIM card/LoRa Key shall automatically be extended monthly for a consecutive period of one (1) month, unless the CLIENT notifies SIMPOINT in writing of his intention to not extend the term of the SIM card/LoRa Key at least one (1) month prior to the date on which the term of the SIM card/LoRa Key would otherwise be extended.

3. If the CLIENT fails to comply with the purchasing obligation, SIMPOINT shall send the remaining SIM cards/LoRa Keys to be ordered to the CLIENT and charge them in accordance with the agreed conditions.

4. Ending the Agreement under which SIM cards/LoRa Keys can be ordered does not end the duration of the SIM cards/LoRa Keys which were ordered under this Agreement. These need to be ended separately with due observance of the duration per individual SIM card/LoRa Key and the period of notice as set out in article 4.2 of this Agreement.

5. The duration of a prepaid SIM card/LoRa Key is automatically renewed with the same period and data bundle as soon as the credit has been used up and/or the term has expired unless agreed otherwise in writing. If the CLIENT does not wish this, he must make this known in writing at least one (1) month prior to the date of renewal.

6. If an Agreement has been entered into for an indefinite period, or a SIM card/LoRa Key ordered under that Agreement has been issued without an end date, it can be terminated in writing by SIMPOINT subject to 1 (one) month's notice. SIMPOINT shall never be obliged to pay any compensation due to termination.

7. SIMPOINT is entitled to terminate entirely or in part with immediate effect the Agreement or a SIM card/LoRa Key ordered under this Agreement without any notice of default and without judicial intervention being required, if the CLIENT is granted a moratorium – whether or not provisional –, if a petition for bankruptcy has been filed against the CLIENT or if his company is being liquidated or terminated other than for the purpose of reconstruction or merger of companies. SIMPOINT shall never be obliged to pay any compensation due to this termination.

8. If the CLIENT cancels an order, SIMPOINT will

charge the CLIENT for all costs incurred, including labour costs.

## **ARTICLE 5: DELIVERY**

1. The delivery shall always be effected to the account and risk of the CLIENT unless parties have agreed otherwise in writing, namely ex works, from the location which SIMPOINT has indicated for that purpose, or if this has not been indicated, from SIMPOINT's warehouse.

2. The delivery times as stated by SIMPOINT are not to be considered final.

3. The CLIENT has an obligation towards SIMPOINT to accept the delivered goods and/or services. If the CLIENT remains in default of this, then the goods and/or services will be counted as delivered the moment SIMPOINT has offered these for delivery, and as of that moment SIMPOINT shall hold onto them at the account and risk of the CLIENT. In that case SIMPOINT shall be entitled to invoice the CLIENT and does not hold the obligation to insure the goods concerned.

4. SIMPOINT is entitled to deliver the goods to be supplied in partial deliveries. SIMPOINT is entitled to invoice the CLIENT for each separate delivery.

## **ARTICLE 6: RETENTION OF TITLE**

1. All deliveries occur under retention of title. All the goods which are delivered or to be delivered in accordance with any Agreement to the CLIENT shall remain in the possession of SIMPOINT until the CLIENT:

- has fulfilled his payment obligations in full for these goods, including interest and costs due and,
- has fulfilled all amounts receivable regarding work that SIMPOINT has carried out or shall carry out within the framework of related agreements, and,
- has fulfilled the amounts receivable which he owes SIMPOINT when failing to fulfil the aforementioned obligations.

2. The CLIENT is not authorized to pledge goods which are under retention of title or to encumber these in any other manner. If third parties seize goods delivered under retention of title or want to establish or assert rights to these goods, the CLIENT is obligated to inform SIMPOINT of this immediately.

## **ARTICLE 7: PRICES AND PAYMENTS**

1. Unless SIMPOINT communicates otherwise in writing the prices as offered and agreed are:

- Exclusive possible shipping or transportation costs;
- Exclusive VAT, import and export duty, and other taxes, levies and duties;
- Exclusive packaging costs, loading and offloading, transportation and insurance;
- Exclusive mounting costs, installation and commissioning;
- Exclusive call-out charge.

2. The costs are payable monthly in advance. Unless agreed otherwise in writing, SIMPOINT collects all payments by direct debit and hereby the CLIENT authorises SIMPOINT to collect all due amounts from the CLIENT's bank account which is known to SIMPOINT. If the collection per direct debit fails and/or the payment period has expired:

- The CLIENT will be in default under this Agreement, without this requiring a prior notice of default and all claims from SIMPOINT on the CLIENT become immediately payable;
- The CLIENT will be obligated to pay the statutory commercial interest on the outstanding amount as well as all judicial and extrajudicial costs incurred by SIMPOINT for the recovery and collection of the amounts due;
- SIMPOINT will be entitled to (temporarily) suspend

her services;

- The costs of the suspension and reactivation will be for the CLIENT to bear.

3. In the case of liquidation, bankruptcy, seizure or suspension of payment of the CLIENT all receivables of SIMPOINT from the CLIENT become immediately payable.

#### **ARTICLE 8: INVESTIGATION, CLAIMS AND WARRENTY**

1. The CLIENT has an obligation to promptly inspect the soundness of the goods supplied by SIMPOINT, insofar as this is reasonably possible, but in any case inspect the goods with respect to quantity and visible defects.

Possible claims must be lodged substantively and in writing within ten (10) days of delivery date and must be addressed to SIMPOINT. After this time period has passed the CLIENT will be deemed to have approved the achievement and the invoice respectively.

2. Claims concerning the invoice must be lodged in writing to SIMPOINT within 10 (ten) days of invoice date.

3. Misprints or writing errors shall never give cause to any claims.

4. The lodging of a complaint does not release the CLIENT from his payment obligations towards SIMPOINT.

5. Lodging a complaint does not suspend payment obligations of the CLIENT and does not give him the right to suspend or offset any payments.

6. Claims shall be tested against the following warranty conditions. If SIMPOINT in her exclusive assessment is of the opinion that a complaint is founded, she shall only be held to either correcting the malfunction/defect free of charge or replacing the products, such to the sole discretion of SIMPOINT.

7. The warranty of delivered goods is limited in both scope and time to possible manufacturing faults, and therefore does not include faults and/or damage resulting from wear and tear, use or usage of the delivered goods.

8. If a delivered good is adapted or processed after delivery by either the CLIENT or a third party, such will render the warranty void in its entirety.

#### **ARTICLE 9: LIABILITY**

1. On account of the existing Agreement between SIMPOINT and the CLIENT, SIMPOINT shall exclusively be liable for direct damages in respect of the CLIENT as and when irrevocably established by the court. Any further loss, such as, however not confined to consequential loss or loss of profits, is excluded, unless such loss is due to intent or gross negligence on the part of SIMPOINT. The amount of the loss shall be limited to the agreed net price (exclusive VAT) related to said Agreement in the period of no longer than 12 months prior to the loss-causing event. In the case of a loss regarding the delivery of hardware, the amount of the loss amount shall be limited to the amount of the stipulated net price (excl. VAT), which is related to the respective hardware.

2. If multiple damages occur during the execution of a single project this shall be considered as a string of interconnected cases and viewed as one (1) case of damage.

3. Claims for damages due to the said above must be lodged in writing with SIMPOINT within one month after the damages have arisen, or as soon as the CLIENT could have acknowledged the damages, under penalty of losing the right to any claim.

4. SIMPOINT shall not be liable for any damages

caused by following directions from the CLIENT, his employee and/or auxiliaries, all this in the broadest sense.

5. No other liabilities apply to SIMPOINT other than stated in these General Terms and Conditions.

#### **ARTICLE 10: FORCE MAJEURE**

1. Besides what the law considers force majeure, are counted as such the striking and/or illness of employees of SIMPOINT, default and/or force majeure on the side of her suppliers, shipping-agents, or other third parties involved in the Agreement, traffic congestion, natural disasters, obstructive measures from any authority, fire and other accidents in her company as well as other obstructive circumstances, insofar as a consequence of these circumstances the (continued) execution of the Agreement can reasonably not or not entirely be expected of her.

2. In the event SIMPOINT cannot fulfil the Agreement permanently due to force majeure, SIMPOINT has the right to claim change of the Agreement to the extent that its execution by her will remain possible, unless this cannot reasonably be expected of the CLIENT and dissolution would be justified. In the latter case the Agreement shall be dissolved without any entitlement to damages for the CLIENT.

#### **ARTICLE 11: VARIOUS PROVISIONS**

1. The CLIENT gives SIMPOINT permission for all acts to which SIMPOINT is and/or shall be obligated by her supplier KPN B.V..

2. SIMPOINT reserves the right to make changes to the General Terms and Conditions and declare the changed conditions applicable to existing agreements. SIMPOINT shall announce the changes in a timely manner and the changes shall take effect 30 days after the written announcement.

3. In the event of conflict between the Agreement and its supplement(s), or parts of these, and these General Terms and Conditions, the text of the Agreement shall prevail.

#### **ARTICLE 12: HARDWARE**

12.1 The provisions adopted in the other articles of these General Terms and Conditions are supplementary applicable to this agreement for the delivery of hardware, to the extent such provisions are not departed from in this article.

##### **12.2 Delivery**

12.2.1 De hardware sold by SIMPOINT to the CLIENT shall be delivered to the CLIENT in accordance with article 5 of these General Terms and Conditions.

12.2.2 Unless otherwise agreed in writing, the purchase price of the hardware does not include the cost of transport and insurance.

12.2.3 The risk of loss, theft and damage of the hardware transfers to the CLIENT upon delivery to the CLIENT. If a conveyor is engaged for the delivery, whether or not at the request or instruction of the CLIENT, the risk of loss, theft and damage of the hardware shall transfer to the CLIENT from the moment of the issue of the hardware to the conveyor.

12.2.4. Timely before delivery, SIMPOINT shall notify the CLIENT of the moment at which delivery of the hardware is anticipated.

12.2.5. SIMPOINT shall package the hardware for delivery according to the standards commonly used at SIMPOINT. In case the CLIENT requires a special packaging method, the related additional costs shall be for the CLIENT's account.

12.2.6 Slight deviations in quality, design, print

speed, hard-disk capacity, instructions for use et cetera, which are permissible in trade and commerce or can technically not be avoided, shall not constitute a reason for lodging a complaint.

##### **12.3 Return deliveries**

12.3.1 Without prior written permission, SIMPOINT is not under obligation to accept any of the CLIENT's return deliveries.

12.3.2 Acceptance of return deliveries shall not in any way imply acknowledgement by SIMPOINT of the reason for return delivery stated by the CLIENT. The risk of items returned shall be vested in the CLIENT up to the moment the CLIENT's account has been credited for the returned items by SIMPOINT.

##### **12.4 Guarantee**

12.4.1 No further-extending guarantees are provided to (parts of) the hardware other than those provided by SIMPOINT's suppliers to such (parts of the) hardware.

12.4.2. Work and costs of rectification outside this guarantee shall be charged by SIMPOINT in accordance with its usual rates.

##### **12.5. Supplier's equipment**

12.5.1 As and when SIMPOINT delivers third-party hardware to the CLIENT, provided CLIENT has been notified hereof by SIMPOINT, the terms and conditions shall furthermore apply to such hardware, while the provisions of these General Terms and Conditions take prevalence in case of a conflict. The CLIENT accepts the third-party terms and conditions referred to.

12.5.2 As and when said third-party conditions should for any reason be declared not applicable in the relationship between the CLIENT and SIMPOINT, or should be declared invalid, the provisions in these General Terms and Conditions shall be applicable.

#### **ARTICLE 13: TRANSLATION OF THESE GENERAL TERMS AND CONDITIONS**

Only the Dutch version of these Terms and Conditions is authentic. If the translation deviates in any way, the Dutch text shall prevail.

#### **ARTICLE 14: DISPUTES AND APPLICABLE LAW**

1. All agreement SIMPOINT enters into shall be governed by the law of the Netherlands, excluding, as far as applicable, The United Nations Convention on Contracts for the International Sale of Goods.

2. Possible disputes shall be submitted to the competent Dutch court in 's-Hertogenbosch, the Netherlands, unless expressly agreed otherwise, or if SIMPOINT as petitioner prefers another competent court in accordance with the law.