

## TERMS OF SALES AND DELIVERY SIGNAL HILL

These are the Terms of Sales and Delivery of Signal Hill according to Dutch legislation, registered at the Chamber of Commerce in Amsterdam, number 52770613, The Netherlands.

The following text is applicable from January 1<sup>st</sup>, 2013.

### General

- 0.1 The Terms of Sales and Delivery of Signal Hill shall apply to all legal relationships between Signal Hill, and the party issuing the order, hereinafter referred to as the Client.

### Applicability

- 1.1 These Terms of Sales and Delivery shall apply to all offers, activities, quotations and agreements relating to an order, implemented by Signal Hill on behalf of the Client.
- 1.2 Any Terms and Conditions of Purchase or other Terms and Conditions of the Client shall not be applicable, unless accepted in writing by Signal Hill.
- 1.3 If and in so far as agreements, offers, work and quotations contain stipulations deviating from present Terms and Conditions, without the applicability of present Terms and Conditions having been explicitly excluded, all other stipulations of present Terms and Conditions shall remain in force.
- 1.4 Should one or more stipulations contained in present Terms of Sales and Delivery prove to be or be declared null and void, the agreement and the applicable Terms of Sales and Delivery shall for the remainder remain valid and unaltered. Should the situation described hereinabove occur, in replacement of the null and void stipulations (a) stipulation(s) shall be introduced which in respect of content, scope and consequences, as far as possible approximate(s) the null and void stipulation(s), without itself (themselves) being null and void.

### Offer and acceptance

- 2.1 If a Client places an order, the agreement shall only be considered to exist following written acceptance of the order by Signal Hill, or commencement of the work by Signal Hill.
- 2.2 All offers, quotations and agreements shall be valid for a period of thirty days, unless otherwise stated in the offer, quotation or agreement.
- 2.3 All offers, quotations and agreements shall be based on the information available to Signal Hill at the moment of issuance. If changes occur relating to the circumstances upon which Signal Hill relied when issuing the offer, quotation and agreement in question, Signal Hill shall be authorized to make allowance for said alterations, in the implementation of the agreement, or to alter the prices.
- 2.4 No offers and quotations relating to the order shall be binding upon Signal Hill.

## **Execution of an order**

- 3.1 Signal Hill will execute any order to the best of its knowledge and capacity and in accordance with the requirements of good professional practice.
- 3.2 An order will be executed under the name and responsibility of Signal Hill.
- 3.3 The period for execution of an order will be further agreed between Signal Hill and the Client.
- 3.4 Alterations to the original order, at the instigation of the Client, may influence the agreed timetable and costs for execution. All additional costs arising from the longer duration of execution of an order and/or additional costs shall be for the account of the Client.

## **Client co-operation**

- 4.1 In so far as possible, the Client must co-operate in the implementation of the agreement entered into with Signal Hill.
- 4.2 The Client shall at all times provide Signal Hill, in good time, with all useful and necessary information, and shall vouch for the correctness of said information.
- 4.3 Any work by employees of the Client for the purposes of the order shall always be carried out in good time.

## **Provision of employees**

- 5.1 Besides employees of Signal Hill, employees of third parties may also be involved in the execution of an order.
- 5.2 Signal Hill is at liberty to replace any employee by any other. Signal Hill guarantees that the replacement employee shall be of comparable professional level.
- 5.3 The obligations arising from these Terms of Sales and Delivery, upon Signal Hill, shall fully apply to any employees.

## **Guarantee**

- 6.1 Signal Hill guarantees the correct implementation of the order. In so far as it can be demonstrated that any shortcomings in the implementation of an order are attributable to Signal Hill, Signal Hill shall correct said shortcomings, without charging any costs to the Client.
- 6.2 In the case of supplying goods, Signal Hill guarantees the normal use of any product supplied by Signal Hill. In so far as it can be demonstrated that any faults in the product occurred during production, Signal Hill shall correct such faults by repair or replacement, without charging any costs to the Client. Damage to supplied products as a consequence of transport or due to errors by the user shall be for the account of the Client.
- 6.3 In the case of supplying goods, faults shall under no circumstances be taken to mean faults which may reasonably be assumed to have been caused by normal use or normal wear. Faults arising as a consequence of inexpert or careless use of a product supplied shall also not be recognized as faults.

## **Complaints**

- 7.1 Complaints relating to the implementation of the order may be submitted by the Client, in writing, within 14 days following handover of the order.
- 7.2 Complaints about invoices must be submitted in writing, within 14 days following completion of the order.

## **Intellectual property**

- 8.1 Unless otherwise agreed on paper, Signal Hill shall retain copyrights and all other intellectual property rights to the designs, models, software, reports and quotations issued by Signal Hill. All such documents shall remain the property of Signal Hill, and may not be copied, shown to third parties or used in any other manner, without express permission, irrespective whether or not the Client has charged for such services. The Client is required to return such items on paying of a penalty of EUR 1,000 per day, without prejudice to the right of Signal Hill to demand compensation for actually suffered damages and consequential losses.

## **Users' rights**

- 9.1 If Signal Hill issues users' rights to the Client, for its (Signal Hill') software, such rights shall be applicable for the term of the license agreement.
- 9.2 Users' rights are not transferable, without written permission from Signal Hill.

## **Liability**

- 10.1 Signal Hill shall solely be liable for damages suffered by the Client, which are the direct consequence of a shortcoming attributable to Signal Hill, on the understanding that compensation shall only be available for damages against which Signal Hill is insured. In this connection, the following limitations must be taken into account:
  - 10.1a Not eligible for compensation shall be consequential losses (business interruption, loss of income, etc.) due to any cause whatsoever. If required, the Client should take out insurance against such losses.
  - 10.1b Signal Hill shall not be liable for damages (of any kind) caused by or during the implementation of the order, to property on which work is being carried out, or property located close to the place where work is being carried out, unless and in so far as Signal Hill is insured therefore.
  - 10.1c Signal Hill shall not be liable for damages caused through deliberate action or gross negligence on the part of assistants.
- 10.2 The Client shall be liable for all damages resulting from loss, theft, fire or damage to the property and materials of Signal Hill, as soon as such property/materials are located at the work site or delivery/service location, all in so far as such damages do not arise from a shortcoming attributable to Signal Hill.
- 10.3 The dispatch by Signal Hill of a product to be supplied to the Client shall be for the risk of the Client.
- 10.4 Liability is always limited to payments received by Signal Hill from Client related to the order or assignment.

## Fee

- 11.1 The Client will be charged a fee based on the charges and cost estimates listed in the quotation. Any additional costs as a result of changes to an order, due to the actions of the Client, shall be for the account of the Client.

## Payment

- 12.1 Payment conditions shall be settled depending on the nature and scale of the delivery or work to be carried out. Unless otherwise agreed, the payment conditions shall be: 50% at the start of the project, 50% upon delivery, unless otherwise indicated in the agreement and/or invoice.
- 12.2 Signal Hill shall at all times be entitled, prior to implementation, to demand in its opinion sufficient security for compliance by the Client with the payment obligations. Signal Hill shall also be entitled, if the Client fails to comply with his payment obligations, to suspend the work, even if the order is subject to a fixed term.
- 12.3 The entire purchase price shall under all circumstances be immediately demandable upon non-punctual payment of the agreed installment on the due date, if the Client is bankrupt, applies for moratorium of payment, or if a request is submitted for placing the Client under curatorship, if any attachment is placed upon the property or receivables of the Client, or if the Client dies, goes into liquidation or is wound up.
- 12.4 Payment may only be made without deduction, discount, set-off or deferral.
- 12.5 If payment of the dispatched invoice has not been made within one month following the invoice date, Signal Hill shall be authorized, following expiry of the specified period, to demand of the Client compensation for loss of interest. Signal Hill will charge 0,5% interest per week over the invoice amount.
- 12.6 Signal Hill is further entitled, besides the principal claim and the interest, to claim from the Client all extrajudicial costs caused by the non (timely) payment. Extrajudicial costs shall be payable by the Client in all cases if Signal Hill has taken out insurance for third-party assistance for collection. Such costs shall be calculated in accordance with the collection charges recommended by the Netherlands Order of Lawyers, in debt collection matters. The simple fact that Signal Hill has taken out insurance for third-party assistance shall demonstrate the scale of and the obligation to pay extrajudicial costs. If Signal Hill petitions for the bankruptcy of the Client, in addition to the principal amount, interest and extrajudicial costs, Signal Hill shall also be entitled to the costs of the bankruptcy petition.
- 12.7 If in legal proceedings, the finding is fully or partially in favor of Signal Hill, all costs accruing to Signal Hill in connection with said proceedings shall be for the account of the Client.

## **Reservation of ownership**

- 13.1 Goods supplied to the Client by Signal Hill on the basis of an agreement shall remain the property of Signal Hill until all amounts payable by the Client in accordance with said agreement have been paid in full to Signal Hill.

## **Force majeure**

- 14.1 Force majeure shall be taken to mean: any circumstance not dependent upon the will of Signal Hill, which temporarily or permanently hinders compliance with the agreement.
- 14.2 In particular, in so far as not already covered by paragraph 1 above, war, war risk, civil war, riot, strike, transport difficulties, fire and other serious disruptions in the company (Signal Hill) or that of the Client shall be considered force majeure.
- 14.3 In the event of force majeure, Signal Hill shall be entitled, at its discretion; to extend delivery by the period of force majeure or in so far as not yet implemented, to terminate the agreement, without Signal Hill becoming required to pay any compensation, in any form whatsoever.

## **Termination**

- 15.1 The agreement shall be fully or partially terminated by written declaration by the duly authorized parties.  
Prior to sending a written declaration of termination to Signal Hill, the Client shall at all times first issue to Signal Hill notice of default, and shall grant Signal Hill a reasonable period in which to still comply with its obligations, or correct shortcomings, which shortcomings must be accurately described in writing, by the Client.
- 15.2 The Client shall have no right to fully or partially terminate the agreement, or to suspend its obligations, if the Client is already in default of compliance with its obligations.
- 15.3 If Signal Hill is faced with termination, without any situation of default on the part of Signal Hill, Signal Hill shall at all times be entitled to all financial losses, such as costs, loss of profits and reasonable costs for determining damages and liability. In the event of partial termination, the Client has no entitlement to the reversal of any work already carried out by Signal Hill, and Signal Hill shall without prejudice be entitled to payment for all work carried out by Signal Hill.

## **Confidentiality**

- 16.1 The parties shall commit to each other to maintain confidentiality in respect of all confidential information from the other party.

## **Non-competition clause**

- 17.1 Without written permission, both parties shall refrain from taking into employment employees of the other party who in the previous 6 months were involved in the implementation of the order/agreement.

## **Applicable law and forum**

- 18.1 All agreements shall be subject to Dutch law. All disputes shall be subject to the authority of the competent national courts in the Netherlands.