



*This document was originally drawn up in the Dutch language. In the English translation below an attempt has been made to be as literal as possible without jeopardizing the overall continuity. In the event of a lack of clarity and/or a difference in interpretation and/or a difference in explanation between the original Dutch text and this translation, the Dutch text shall always prevail.*

## GENERAL DELIVERY CONDITIONS SMILE AD

*These General Delivery Conditions have been filed at the Registry of the District Court in Zwolle-Lelystad under number 29-2017 And with the chambers of commerce under number 856978735*

### 1. Definitions

**SMILE AD** SMILE AD B.V., with its registered office and principal place of business in Deventer  
**Customer** A natural person, legal entity, joint venture without a legal personality, as well as its representatives and/or authorized representative who has entered into or intends to enter into an agreement

**Parties** SMILE AD and Customer

**Software** Software and/or websites delivered by SMILE AD

**Service Desk** The supporting service or assistance to Customer with regard to the services offered by SMILE AD

**ISP** Internet Service Provider

### 2. Applicability General Delivery Conditions

2.1 These General Delivery Conditions shall apply to any and all applications, offers, orders and agreements whereby SMILE AD delivers goods and/or services to Customer.

2.2 Deviations from these General Delivery Conditions will only be valid if expressly agreed upon in writing with SMILE AD.

2.3 Purchase conditions and other terms and conditions which are declared applicable by Customer shall not bind SMILE AD, unless and to the extent that these have been expressly agreed in writing.

2.4 Should any provision of these General Delivery Conditions be void or be declared void, all remaining provisions and terms will remain in full force and effect.

2.5 SMILE AD is entitled to change these General Delivery Conditions. Changes shall also apply to agreements already entered into, subject to the following provision: any changes affecting a Customer, with whom an agreement has been already concluded, will be announced in good time and in an appropriate way. Such changes will come into force 30 days after the announcement, or on a later date as stated in the announcement, unless Customer declares within this term that it will not accept the change.

### 3. Offers

3.1 All offers made by SMILE AD, whether in the form of price lists, printed matter, brochures or otherwise, including oral offers and other statements made by employees of SMILE AD, are always without obligation, unless stated otherwise in writing.

3.2 Customer guarantees the accuracy and completeness of the details provided by it or on behalf of it to SMILE AD, which form the basis of the offer made by SMILE AD. Customer shall always exercise proper care in ensuring that the

requirements for the performance of SMILE AD are correct and complete.

### 4. Agreements

4.1 An agreement shall only be concluded after SMILE AD has accepted or confirmed an order in writing, or when it executes this order. The confirmation of the order is deemed to reflect the agreement accurately and completely; in this regard, the date of confirmation will be decisive.

4.2 If Customer does not agree with the content of the confirmation of the order, it should object in writing by registered post within 5 business days.

4.3 In respect of agreements for which, due to the nature and the size, no offer or confirmation of the order is sent, the invoice is deemed to reflect the agreement accurately and completely, subject to any complaints submitted within 5 business days.

4.4 Except with SMILE AD's prior written permission, Customer is not authorized to transfer its rights and obligations under agreements entered into with SMILE AD to any third party.

### 5. Duration of the agreements

5.1 Agreements in respect of hosting or maintenance shall be entered into for a minimum term of one year. Early termination of the agreement by Customer during the first year is not possible.

5.2 The agreements referred to under article 5.1 shall, after one year, be renewed under the same conditions, each time with a term of 12 months, unless notice has been given with due observance of the following provisions.

5.3 Customer has to observe a notice period of three months; termination of the agreement should, therefore, take place at least three months before the end of the contract period. Termination of the agreement should always take place in writing.

5.4 Should the agreement terminate before the term for which it has been concluded has come to an end, Customer will be obliged to pay to SMILE AD the full consideration due for that term, subject to any relevant statutory regulations in this respect. Any savings and benefits to SMILE AD resulting from an early termination shall be deducted from the amount of the consideration, where applicable.

### 6. Prices, invoicing and payment

6.1 Unless stated otherwise, SMILE AD's prices are stated in Euros, exclusive of VAT and any other charging arising from any statutory provisions. Unless agreed otherwise, all prices will always be in Euros and Customer should make all payments in Euros.

6.2 Should SMILE AD have made any cost estimates and/or budgets, these shall only be of an indicative nature, unless agreed otherwise in writing. If Customer indicates to SMILE AD that it has a certain budget available, this will not be considered to be the amount agreed upon between parties for any services to be provided by SMILE AD. SMILE AD is not obliged to inform Customer about any imminent overrun of the cost estimate and/or budget.

6.3 If Customer comprises several natural persons and/or legal entities, then each of these persons will be jointly and severally bound to pay any amounts due pursuant to the agreement.

6.4 With regard to any services rendered by SMILE AD and the payments due by Customer in that respect, details from the records of SMILE AD will

provide full evidence, without prejudice to the right of Customer to provide any evidence to the contrary.

6.5 In case Customer has a periodic payment obligation, SMILE AD is entitled to increase the rates used, subject to a notice period of three months.

6.6 If Customer does not agree to an adjustment as referred to in article 6.5, Customer is entitled to terminate the agreement in writing within thirty days after the envisaged notice with effect from the date on which the adjustment in price or rate would become effective, or to cancel the agreement. Customer shall not be entitled to terminate if it has been agreed between parties that the current prices and rates shall be adjusted, subject to an index or any other standard agreed upon between parties.

6.7 Customer will pay any amounts due to SMILE AD within a period after the invoice date to be determined by SMILE AD. Customer is not entitled to suspension or settlement of the amounts due to SMILE AD.

6.8 Any objections to invoices sent by SMILE AD should be submitted in writing, thereby stating the nature and the grounds of the complaint in detail. Complaints will only be attended to if received by SMILE AD within 5 business days after the date of the invoice. After the expiry of this term, complaints will no longer be attended to, unless Customer is a natural person, not in the course of a profession or a business.

6.9 If Customer has not paid for the services performed by SMILE AD within the agreed payment period, SMILE AD may discontinue performance under the agreement (possibly temporarily). After expiry of the payment term, Customer shall be obliged to pay statutory commercial interest over the outstanding amount, without any demand or notice of default being required.

6.10 If Customer, after a reminder or notice of default, remains in default to pay the amount due, SMILE AD may refer the debt for collection. In that case, in addition to the amount already due, Customer shall be obliged to pay any judicial and extrajudicial costs, including any costs for experts and costs of any failed mediation.

6.11 The payment regarding extrajudicial costs shall be fixed at 20% of the principal sum due, with a minimum amount of € 125.-, if the principal amount does not exceed an amount of € 1,250.-. In case the principal amount exceeds an amount of € 1,250.-, but is less than € 3,250.-, a percentage of 15% will apply. For amounts of € 3,250.- and higher, a percentage of 10% will apply. This payment will at all times, after SMILE AD has obtained legal assistance, or after it will have referred the debt for collection, be charged to and be payable by Customer, without any further evidence being required.

### 7. Confidential information

7.1 Parties shall observe confidentiality in respect of all information received from the other party of which it is known or of which in all reasonableness it should have been known that it concerns confidential information. Confidential information shall only be used for the purpose for which it has been provided. Information shall be considered to be confidential in any event if one of the parties has indicated that it concerns confidential information.

### 8. Takeover Clause

8.1 Parties shall not, without the prior written consent of the other party, employ any employees of such other party who are involved in the performance of this agreement or who have been



involved in the performance less than one year ago.

## 9. Privacy, processing of data and security

9.1 If deemed important by SMILE AD for the performance of the agreement, Customer shall inform

SMILE AD immediately in writing upon request about the way in which Customer carries out its statutory obligations regarding the protection of personal data.

9.2 Customer indemnifies SMILE AD against any and all claims from persons whose personal data have been recorded or are processed in the context of a registration of personal data kept by Customer, or for which Customer is responsible pursuant to the law or otherwise, unless Customer proves that the facts that have given rise to the claim should be attributed to SMILE AD exclusively.

9.3 The responsibility for the data processed while applying services granted by SMILE AD, rests solely with Customer. Customer undertakes towards SMILE AD that the content, the use and/or the processing of the data shall not be unlawful and shall not infringe any right of any third party. Customer indemnifies SMILE AD against any legal action by a third party, for whatever reason, in connection with such details or the performance of the agreement.

9.4 If, pursuant to the agreement, SMILE AD is obliged to provide a form of information security, such security shall comply with the specifications in respect of security as agreed between parties in writing. SMILE AD shall never guarantee that the information security shall under all circumstances be effective. If security has not been expressly specified in the agreement, the security shall comply with a level which, in view of the state of the technology, the sensitivity of the data, and the costs involved for arranging the security, is not unreasonable.

9.5 If, in the performance of the agreement or otherwise, computer, data or telecommunication facilities are used, SMILE AD is entitled to assign access codes or identification codes to Customer. SMILE AD is entitled to change any access codes or identification codes it has assigned. Customer shall treat the access codes and the identification codes confidentially and with due care, and shall only make such codes available to authorized employees. SMILE AD shall never be liable for any damage or costs that are the result of the use or misuse of any access codes or identification codes, unless such misuse has been possible as a direct result of any act or omission by SMILE AD.

9.6 SMILE AD shall be authorized to inspect the data files of Customer if and to the extent this is required for reviewing and complying with a request for inspection, as well as in respect of a good management and operation of the system.

## 10. Restrictions and right of retention

10.1 The ownership of any property sold to Customer by SMILE AD, shall only transfer from SMILE AD to Customer after full payment of any amounts due to SMILE AD in this respect.

10.2 The agreement between SMILE AD and Customer does not relate to the IP-address attributed to Customer by SMILE AD, or the availability of it. The right of use in respect of the IP-address, not being the subject of the agreement, neither depending on it, shall upon termination of the contractual relationship between parties be solely reserved for SMILE AD, as well as SMILE AD's free disposition of it.

10.3 SMILE AD is entitled to retain possession of any goods it retains of and on behalf of Customer

in settlement of all payment obligations Customer may have towards it, unless Customer has furnished adequate security for the satisfaction of such payment obligations.

10.4 Rights, including rights of use, shall only be granted or transferred on the condition that Customer will have fully settled all payments due under the agreement.

## 11. Domain names

11.1 Requests for domain names under .nl shall only be attended to by SMILE AD after signature by Customer of the "Indemnity Statement forming part of the application for a domain name", all this in accordance with the requirements of the Stichting Internet Domeinregistratie Nederland (SIDN).

11.2 Applications for domain names under the .nl, .com, .net, .org and .edu domain shall be submitted by SMILE AD to the relevant regulatory authorities, on behalf of Customer.

11.3 SMILE AD shall not give any guarantee as to the availability of the domain name prior to the application for the domain name. The time of the application for the domain name shall be the time when the ISP has submitted the application for the domain name with the regulatory authority.

11.4 The review of a granting or rejection of a domain name application rests completely with the regulatory authority. SMILE AD shall never be liable for any possible trading loss or other indirect damage, including damage as a result of time of use, loss of profits, lost savings, as a result of a domain name application being rejected by the regulatory authority.

11.5 Moving a domain name from SMILE AD to another ISP is solely allowed if Customer as holder of the domain name shall have complied with all of its payment obligations towards SMILE AD.

## 12. Intellectual property rights

12.1 Any and all intellectual property rights in respect of graphic products, hardware, software, websites, applications, documentation, reports, offers and other property, such as i.a. analyses, functional designs and reports, and any changes and additions thereto, as well as any copies of the aforementioned property and any preparatory material in that respect, which has been developed or made available to Customer on the basis of the agreement, shall rest solely with SMILE AD, its licensors or its suppliers. Customer shall solely obtain the rights of use that have been expressly granted to it by SMILE AD in writing. Such rights of use shall be non-exclusive, non-transferrable and non-sublicensable.

12.2 When SMILE AD is prepared to undertake the transfer of an intellectual property right, this undertaking should be entered into in writing and expressly. If parties agree in writing that an intellectual property with respect to any software, websites, data files, hardware or other material, which have been specifically developed for Customer, shall transfer to Customer, this shall not affect SMILE AD's right or possibility to use and/or exploit, without any restriction, for any other purpose, for itself or for a third party, any parts, general principles, ideas, designs, algorithms, documentation, works, software languages, protocols, standards and the like, that underlie such development. The transfer shall also not affect SMILE AD's right to undertake developments for its own purpose or for the purpose of others, which are similar to or derived from developments that have been or will be done for Customer.

12.3 Customer is not allowed, in whatever manner, to modify, multiply (other than required

for envisaged use), lend out or provide to a third party in any other manner, any software, websites, data files, hardware or material, or parts thereof, except to the extent required for the use expressly allowed under the agreement.

12.4 SMILE AD is allowed to apply technical facilities in order to protect the software, hardware, data files, websites and the like in connection with an agreed restriction in the content or the term of the right of use of these objects. Customer is not allowed to circumvent or remove any such facilities.

12.5 In case of copying or multiplying the software in any other manner, Customer shall never be allowed to change or remove any maker's notice that occurs in the software, or any notice regarding the confidential nature of the software, or any other reference to SMILE AD.

12.6 As regards any concepts, semi-finished products, graphic designs, applications and other kinds of activities created by SMILE AD, parties consider SMILE AD to be the sole maker or designer within the meaning of copyright law and designs and models law.

12.7 Items to be delivered or delivered by SMILE AD according to its design such as copy, composition, draft drawings, models, working drawings and detailed drawings, information carriers, data files, computer software, photographic recordings, lithos, films and similar production and other resources, or any part forming part of the fundament of such design, also in case or to the extent that no copyright or other statutory protection for such design is in existence in this regard, may not be multiplied in the context of any production process without its written consent.

12.8 For copyright-protected works, it is obliged to state SMILE AD's name, unless otherwise agreed in writing, and/or if there are strong objections in the performance. Such objections should be brought to the attention of SMILE AD at the time of granting the assignment, and be accepted by SMILE AD in writing. The fact that, in certain circumstances, attribution is not common, does not qualify as a strong objection. SMILE AD may require that its name shall not be used or that another name be used.

12.9 If SMILE AD has delivered a performance on the basis of designs, drawings or other instructions provided by or on behalf of Customer, Customer guarantees that this will not affect any intellectual property rights of any third party. Customer indemnifies SMILE AD against any and all claims by third parties in this respect.

12.10 If SMILE AD has promised Customer any right of exclusivity with respect to the products or services delivered, SMILE AD shall not be liable for any infringements in this regard by third parties, which have occurred through no fault of SMILE AD.

12.11 Customer can only claim the right of exclusivity promised by SMILE AD if Customer has fully complied with all of its obligations arising from the agreement.

12.12 SMILE AD shall indemnify Customer against any and all actions based on the statement that the software, websites, data files, hardware or other materials developed by SMILE AD itself infringe a copyright valid in the Netherlands or any other intellectual property right, and it shall pay any costs arising therefrom, provided that Customer has informed SMILE AD in writing, immediately after such action has been initiated, that Customer shall provide copies of all relevant correspondence, and that the defence against such action, as well as all negotiations to reach a settlement, shall be conducted by SMILE AD.

12.13 The obligation to indemnify as meant under article 12.12 shall cease to apply if the claimed infringement relates to:



- any materials made available by Customer to SMILE AD for use, adaptation, processing, or incorporating, or

- any changes applied to the software, websites, data files, hardware or other materials by Customer or which Customer has caused to be applied by a third party, without SMILE AD's prior written consent.

12.14 If it is irrevocably established in court that the software, websites, data files, hardware and other materials that have been developed by SMILE AD itself are infringing any intellectual property right of any third party, or if, in the opinion of SMILE AD, there is a fair chance that such an infringement will occur, SMILE AD shall ensure, if possible, that the Customer will have the continued use of the items delivered, or other software that is similar in its functionality, websites, data files, hardware or other materials. Every other or further obligation to indemnify of SMILE AD has been excluded.

12.15 Customer guarantees that hardware, software, material for use with websites, data files or other materials that it has made available to SMILE AD for the purpose of use, adaptation, installation or incorporation, do not infringe any rights of any third party. Customer indemnifies SMILE AD against any claim from third parties that is based on a statement that such making available, use, adaptation, installation or incorporation infringes any right of such third party.

12.16 SMILE AD is not liable for any action that is based on the combination, the service or the use of the software with hardware or software that has not been provided or recommended in writing by SMILE AD, or on a change in the software applied by Customer, unless SMILE AD has given its prior written approval in this respect.

12.17 The source code of the software and the technical documentation prepared during the development of the software shall only be made available to Customer if and to the extent this has been agreed in writing, in which case Customer shall be entitled to apply changes to such software. In the event that SMILE AD is ordered by a court to make the source code and/or the technical documentation available to Customer, SMILE AD is allowed to require a reasonable compensation in this regard.

12.18 Unless otherwise agreed in writing, SMILE AD is not obliged to make available the required support software and software or data libraries for the use and/or maintenance of the software. If, contrary to the aforementioned, SMILE AD is required to make available support software and/or software or data libraries as well, SMILE AD may require that Customer shall enter into a separate agreement in that regard. Such availability shall be invoiced separately at the usual rates charged by SMILE AD, as appropriate.

12.19 If there is any lack of clarity between SMILE AD and Customer as to which party is entitled to any intellectual property right, it shall be assumed that SMILE AD is the entitled party. Customer is authorized to provide proof to the contrary in this respect.

### 13. Obligation to cooperate

13.1 Customer shall always provide SMILE AD with any and all data and/or information as deemed useful, necessary or desirable by SMILE AD, and fully cooperate. If, in connection with such cooperation or provision of data or information, Customer will engage employees or any third party, then Customer guarantees that such persons will have the required knowledge, expertise and experience.

13.2 Customer shall bear the risk of selection, use, application and management of the hardware, software, websites, data files and other products and materials and of the services to be performed by SMILE AD. Customer shall itself arrange for the proper installation, assembly and putting into use and for the proper setting of the hardware, software, websites, data files and other products and materials.

13.3 If Customer does not, not timely or not in accordance with the agreements provide SMILE AD with data, documents, hardware, software, materials or employees as deemed useful, required or desirable by SMILE AD for the performance of the agreement, or if Customer shall not comply with its obligations in any other manner, SMILE AD shall be entitled to require full or partial suspension of the performance of the agreement, and to charge the costs occurred as a result thereof to Customer. This right shall apply notwithstanding the exercise of any other statutory and/or agreed right of SMILE AD.

13.4 If employees of SMILE AD are carrying out activities at the site of Customer, Customer shall arrange for any desired facilities at no charge. Customer shall indemnify SMILE AD against claims by third parties, including employees of SMILE AD, which might arise during the performance of the agreement because of any acts or omissions of Customer and/or because of any unsafe situations in its organisation. Customer shall communicate the internal rules and the security policy as applicable to its organisation prior to the commencement of the activities.

### 14. Terms of delivery

14.1 Any interim dates of delivery as mentioned by SMILE AD or as agreed between parties shall always be target dates, they shall not bind SMILE AD and shall only be of an indicative nature. SMILE AD shall endeavour to comply with such terms and dates as much as possible. SMILE AD is not bound to a final date if it is not possible to deliver by such a date on account of a cause that has occurred after conclusion of the agreement, and which is beyond the control of SMILE AD. SMILE AD is also not bound to a date and/or term if parties have agreed on a change in the content, size and/or approach of the performance of the agreement. In case of an imminent failure to meet a term, parties shall consult each other about the consequences of the failure for the further planning.

14.2 The failure to meet a term mentioned by SMILE AD or agreed upon between parties shall not render SMILE AD to be in default. In all instances, SMILE AD shall only be in default on account of the failure to meet a term after Customer has given SMILE AD notice of default in writing. Such notice of default should contain a description of the failure that is as complete and as detailed as possible, so that SMILE AD will be in a position to respond as adequately as possible.

### 15. Setting aside and termination

15.1 The agreement may be set aside by either party due to an attributable failure to perform the agreement, provided that the other party has failed imputably in the performance of essential obligations under the agreement, after that party has been given proper notice of default in writing. Customer's obligations in respect of payment or regarding cooperation shall always be considered as essential obligations pursuant to the agreement.

15.2 If, at the moment of the setting aside as referred to in article 15.1, SMILE AD has already performed towards Customer, such performance

and the related payment obligation cannot be revoked, unless Customer will prove that SMILE AD is in default in respect of the essential part of such performance. Any amounts that have been invoiced by SMILE AD prior to the setting aside in connection with its proper performance or delivery pursuant to the agreement shall remain to be fully payable, with due observance of the aforementioned, and shall become immediately due and payable upon the setting aside.

15.3 If an agreement that will not reach completion because of its nature or content (for example hosting or maintenance) has been entered into for an indefinite period of time, it can be terminated in writing by both parties after properly consulting each other, stating the reasons for termination. If no notice period has been agreed upon, a reasonable notice period should be observed. Parties shall never be obliged to pay damages as a result of a notice of termination.

15.4 Customer is not entitled to terminate early an agreement for services that has been entered into for a definite period of time.

15.5 Each party is authorized to terminate the agreement with immediate effect, without a notice of default and prior judicial intervention being required, if:

- the other party applies for a moratorium;
- the other party has been put into liquidation;
- the other party is liquidated as a legal entity or terminated, other than for the purpose of reconstruction or a merger of companies;
- there is a change in the decision-making control over the company of Customer;
- Customer is a natural person and passes away.

15.6 SMILE AD is not obliged to pay any damages or reimbursement of funds received by reason of this termination. In the case of a liquidation of Customer, Customer's right of use in respect of any software, websites and the like that have been made available to Customer shall cease to apply ipso jure.

### 16. Liability SMILE AD

16.1 SMILE AD's total liability due to an attributable failure to perform the agreement or on account of any other reason, expressly including any failure to perform the guarantee obligation as agreed with Customer, shall be limited to compensation of the direct damage not exceeding the sum stipulated for such agreement (exclusive of VAT). This limited liability shall apply by analogy to SMILE AD's obligation to indemnify as referred to in article 12.12 of this agreement. If the agreement mainly concerns a continuing performance contract with a term of more than one year, the sum stipulated for the agreement shall be fixed at the total of the compensation (exclusive of VAT) stipulated for one year. The total liability of SMILE AD for direct damage, for whatever reason, shall, however, under no circumstances exceed an amount of € 10,000.-.

16.2 SMILE AD's liability for damage as a result of death, bodily injury or due to material damage to property shall never exceed the amount that will be paid by the liability insurer of SMILE AD in such instance. Should the liability insurer unexpectedly not pay out, then the total liability of SMILE AD for any damage as referred to in this article shall under no circumstances exceed an amount of € 10,000.-.

16.3 The liability of SMILE AD for indirect damage, consequential damage, loss of profit, lost savings, reduced goodwill, loss due to business interruption, damage as a result of claims by customers of Customer, damage in connection with the use prescribed by Customer to SMILE AD



of matters, materials or software of third parties and damage related to the engagement of suppliers prescribed by Customer to SMILE AD has been excluded. Also excluded is the liability of SMILE AD on account of mutilation, destruction or loss of data or documents.

16.4 Unless performance remains permanently impossible, liability for SMILE AD due to an attributable failure to perform an agreement shall arise only if Customer immediately gives SMILE AD written notice of default, whereby a reasonable term will be allowed to remedy the failure, and SMILE AD will also after that term continue to fail imputably in the performance of its obligations. The notice of default should contain a description of the failure that is as complete and as detailed as possible, so that SMILE AD can be given the opportunity to respond adequately.

16.5 A condition for the occurrence of any right to damages will always be that Customer will inform

SMILE AD in writing as soon as possible after the occurrence of the damage. Any claim for damages against supplier shall cease to apply by the mere expiry of twenty-four months after the occurrence of the claim.

16.6 Customer shall indemnify SMILE AD against any and all claims by third parties on account of product liability as a result of a failure in a product or system that has been delivered to a third party by Customer, and which partly consisted of hardware, software or other materials delivered by SMILE AD, unless and to the extent that Customer proves that the damage has been caused by such hardware, software or other materials.

16.7 The provisions of this article as well as all other provisions and exclusions of liability as mentioned in this agreement also apply in favour of all legal and natural persons of whom SMILE AD makes use in the performance of the agreement.

16.8 The restrictions and exclusions as mentioned in this article shall cease to apply if and to the extent the damage is a result of wilful misconduct or wilful recklessness on the part of SMILE AD or its managers.

## 17. Force majeure

17.1 Parties are not obliged to comply with any obligation (including a guarantee obligation) if they are prevented from doing so as a result of force majeure. This includes, amongst other things:

- force majeure of suppliers of SMILE AD;
- not properly complying with obligations of suppliers which have been prescribed by Customer to SMILE AD;
- defectiveness of matters, hardware, software or materials of third parties, the use of which has been prescribed by Customer to SMILE AD;
- government measures;
- power failure;
- breakdown of the internet, computer network or telecommunication facilities;
- war;
- staffing;
- strike;
- general transport problems;
- non-availability of one or more employees.

17.2 If a force majeure situation lasts for more than ninety days, either party will be entitled to terminate the agreement. That which has already been performed pursuant to the agreement shall be settled pro rata, without parties having any other obligations towards each other.

## 18. Modification and additional work

18.1 If SMILE AD has, at the request or with the prior permission of Customer, carried out activities or other services that fall outside the scope or the size of the agreed activities and/or services, these activities or services shall be paid for by Customer in accordance with the agreed rates, and in the absence of such rates according to the usual rates of SMILE AD. SMILE AD is not obliged to comply with such a request and may require that a separate agreement be entered into.

18.2 Customer accepts that activities or services as meant in this article may affect the agreed or expected time of completion of the provision of services and the mutual responsibilities of Customer and SMILE AD. The fact that additional work may occur during the execution of the agreement, will never be a reason for Customer for termination or setting aside of the agreement.

18.3 To the extent that the provision of services has been agreed at a fixed rate, SMILE AD shall inform Customer if so requested in writing about the financial consequences of the additional activities or services as meant in this article.

## 19. Transfer of rights and obligations

19.1 For a good and complete observance of its obligations pursuant to the agreement in existence between parties, SMILE AD is authorized to engage third parties. The costs involved in this shall, in case no fixed price has been agreed for the relevant services, be passed on to Customer.

19.2 SMILE AD is entitled to transfer its rights and obligations towards Customer to a third party.

19.3 Customer is not allowed to transfer the rights and/or obligations pursuant to the agreement to a third party without the prior written consent of SMILE AD.

## 20. Period of limitation

20.1 All legal actions of Customer on account of an agreement that is subject to these General Delivery Conditions shall be precluded by the lapse of a period of one year, except for any mandatory statutory provisions, to be calculated from the date on which compliance with obligations pursuant to the agreement in existence between parties has become due and payable.

## 21. Applicable law and disputes

21.1 All offers, agreements and the execution thereof shall be governed exclusively by the laws of the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods (CISG) has been excluded.

21.2 All disputes, including those which are considered as such by only one of the parties, arising from or relating to the agreement that is subject to these General Delivery Conditions, or to the relevant General Terms and Conditions and their interpretation or execution, of a factual and a legal nature, shall be settled exclusively by the competent court in the district in which SMILE AD has its registered office.