

**General Conditions**  
**June 2007**

## General Conditions of Telefication bv

### 1 Definitions

- Telefication : Telefication bv, whose registered office is situated in Zevenaar, and any party performing duties under its authority.
- Contract : Mutual consent relating to all duties performed by or on behalf of Telefication.
- Contract Price : Remuneration agreed by Contract for duties performed by or on behalf of Telefication.
- Quotation : Telefication's offer made for the purpose of concluding a Contract.
- Client : Any party with whom Telefication has concluded a Contract.
- Result : The entire complex of details, facts and conclusions and/or goods resulting from a Contract.
- Extra Work: All extra duties which Telefication has had to perform in order to achieve the Result and which do not become evident from the quotation or order confirmation.

### 2 Applicability

- 2.1 These "General Conditions of Telefication bv" apply to all Quotations and all Contracts between Telefication and the Client insofar as these "General Conditions of Telefication bv" are not deviated from expressly by Telefication and the Client.
- 2.2 Should one or a part of the provisions incorporated in these "General Conditions of Telefication bv" not be applicable for any reason whatsoever, then this provision or part thereof shall be considered replaced by an applicable provision, the effect of which shall be as similar as possible to the aforementioned provision.
- 2.3 Inapplicability of one or several provisions of these "General Conditions of Telefication bv" shall not affect the applicability of any of the other provisions.

### 3 Quotation and Contract

- 3.1 All Quotations submitted by Telefication shall be without any obligation and have their period of validity indicated in the Quotation. If no period of validity is mentioned in the Quotation, then it will amount to 28 days from its date.
- 3.2 Mutual consent relating to all duties performed by or on behalf of Telefication shall only exist if the Client has accepted a Quotation from Telefication in writing within its period of validity or upon Telefication's confirmation in writing of an order placed by the Client in any other way.
- 3.3 With its written confirmation of the order, Telefication is entitled to place specific conditions and stipulations upon its execution of the order. If the Client fails to lodge any objections to these specific conditions or stipulations before the performance of the Contract is commenced and no later than 10 days after receipt of Telefication's written order confirmation, they shall be considered to have been accepted.
- 3.4 Any agreed period of delivery shall not be regarded as a deadline, unless expressly otherwise agreed. In the event of late delivery, the Client shall hold Telefication liable in writing.

### 4 Contract Price and Invoicing

- 4.1 The Contract Price consists of a fixed price or a price estimation with subsequent calculation.
- 4.2 When the Contract is concluded, Telefication will submit an invoice for an advance amounting to 50 per cent of the Contract Price.

- 4.3 During the performance of the Contract, Telefication will be entitled, in addition to the advance mentioned in Paragraph 2 of this Article, to submit an interim invoice for an amount of 25 per cent of the Contract Price.
- 4.4 In addition to the advance mentioned in Paragraph 2 of this Article and the interim invoice referred to in Paragraph 3 of this Article, Telefication will be entitled to submit a second invoice for an amount of 25 per cent of the Contract Price.
- 4.5 Contrary to the provisions of Paragraphs 2, 3 and 4 of this Article, Telefication is entitled to submit an invoice for an advance amounting to the entire Contract Price when the Contract is concluded.
- 4.6 Telefication shall not owe any interest on advances invoiced to the Client.

- 4.7 On delivery of the Result, the final invoice within the scope of the Contract will be drawn up. Any advances and interim invoices will be taken into account when the final invoice of the Contract is drawn up. The final invoice will amount to the Contract Price plus the possible costs of:
- a) the Extra Work referred to in Article 6;
  - b) the Performance referred to in Paragraph 2 of Article 7;
  - c) the Interim Reports referred to in Paragraph 4 of Article 8;
  - d) the Suspension referred to in Paragraph 3 of Article 9;
  - e) the Damage referred to in Paragraph 1 of Article 10.

## **5 Payment**

- 5.1 Payment of Telefication's invoices must be made within 30 days from date of invoice.
- 5.2 Payment of Telefication's invoices must be made in the invoiced currency.
- 5.3 Telefication's invoices must be paid free of charge.
- 5.4 Unless otherwise agreed, all remunerations for duties performed, prices and other costs shall be exclusive of VAT and exclusive of any other levies and taxes.
- 5.5 Contrary to the provisions of Paragraph 1 of this Article, Telefication is entitled to demand payment before the date on which the performance of the Contract commences.
- 5.6 If the Client is late in making the payment referred to in Paragraph 5 of this Article, then this shall be considered dissolution of the Contract by the Client in accordance with Article 9, Paragraph 2c.
- 5.7 If the Client fails to pay an invoice within the period referred to in Paragraph 1 of this Article, the Client shall be in default without notice of default being required. In this case, the Client shall owe legal interest plus 5 per cent per year from date of invoice and all costs relating to the collection of the unpaid invoice shall be entirely at the Client's expense.
- 5.8 In the event of payment contrary to the provision of Paragraph 2 of this Article, Telefication is entitled to charge any costs arising from currency conversion plus accounting costs to the Client.
- 5.9 In the event of payment contrary to the provision of Paragraph 3 of this Article, Telefication is entitled to charge the resulting difference plus accounting costs to the Client.
- 5.10 If, upon the Client's request, one or several invoices are addressed to a third party designated by the Client, then the Client shall remain fully responsible for the payment of these invoices.
- 5.11 Telefication is entitled to postpone the delivery of the Result as long as the Client fails to meet its obligations.

## **6 Extra work**

- 6.1 If it becomes evident during the performance of the Contract that Extra Work is required, Telefication shall be entitled to invoice up to 10 per cent of the Contract Price in addition to the Contract Price as compensation for this Extra Work.
- 6.2 If the order involves testing and/or certification duties, Telefication shall be entitled to invoice up to 50 per cent of the Contract Price in addition to the Contract Price as compensation for Extra Work.
- 6.3 Extra testing work shall be charged on the basis of laboratory shifts. One lab shift consists of making available the measuring equipment required for testing as well as laboratory space and, if required, a qualified test engineer during a period of no more than four consecutive hours in the morning, afternoon or evening. Two lab shifts together form one normal working day.
- 6.4 If it takes more than one hour to make a product to be tested operational (ready for testing), then this extra time shall be regarded as Extra Work.

- 6.5 Extra certification work shall be charged on the basis of audit shifts. One audit shift consists of making available a qualified auditor as well as any appliances required for the certification during a period of no more than four consecutive hours in the morning, afternoon or evening. Two audit shifts together form one normal working day.
- 6.6 Should the Extra Work exceed the limits referred to in Paragraphs 1 and 2 of this Article, Telefication shall only be entitled to charge these costs after the Client has given permission to this effect.

## **7 Performance**

- 7.1 If the Contract is performed on or with the Client's equipment, the Client shall ensure that the relevant equipment, any appendant documentation in duplicate and any appliances required are made available at the agreed address before the agreed commencement of the work, free of charge and in working order.  
If applying for certification, the applicant (or by the applicant authorised third party) agrees he is responsible to indicate the scope of the desired certification, and the applicant (or by the applicant authorised third party) agrees to comply with the requirements for certification and to supply any information needed for evaluation of products to be certified.
- 7.2 Any costs and risks relating to the transport, storage and removal of the items referred to in Paragraph 1 of this Article shall be borne by the Client.
- 7.3 If the items referred to in Paragraph 1 of this Article are not made available on time, then this will be regarded as a Suspension of the Contract by the Client in accordance with Article 9, Paragraph 3d.
- 7.4 Telefication is entitled to keep possession of the items made available by the Client referred to in Paragraph 1 of this Article until the Contract is completed.

## **8 Results**

- 8.1 The Result of the Contract will be delivered in the manner determined by Telefication, unless otherwise agreed.
- 8.2 Through payment of both the final invoice and any advances and interim invoices the ownership of the Result shall pass to the Client.
- 8.3 The Client is free to use the Result without further compensation within the scope of operating its own business or institution, on the understanding that:
- Telefication shall retain at all times the intellectual and industrial proprietary rights to the Results, subject to rights of third parties;
  - Telefication may decide that the Result must be considered confidential information such as referred to in Article 11;
  - the Client shall not publish the Result in any way other than in its entirety, unless Telefication gives its permission in writing for partial publication;
  - should the Client, within the limits indicated in these General Conditions, publish a Result, whether to support its commercial operations or otherwise, then Telefication must be stated as its producer without doing harm to Telefication's good reputation and/or independent position;
  - Telefication shall retain unlimited powers to use the Result or cause it to be used for the benefit of its own business operations or for the benefit of third parties, subject to the confidentiality referred to in Article 11;
  - Telefication has not withdrawn the Result.
- 8.4 The Client is entitled to demand interim progress reports from Telefication. If the Contract does not expressly provide for the costs thereof, Telefication shall be entitled to charge the costs of these reports to the Client.

## **9 Dissolution and Suspension**

- 9.1 Dissolution or suspension of the Contract by the Client shall take place in writing. The date of receipt of this written notice shall be valid as the date of dissolution or suspension.
- 9.2 If the Contract is dissolved by the Client, it shall owe the following amounts to Telefication:
- 30 per cent of the Contract Price if the Contract is dissolved more than two weeks before its performance is commenced;
  - 60 per cent of the Contract Price if the Contract is dissolved less than two weeks but more than one week before its performance is commenced;
  - 90 per cent of the Contract Price if the Contract is dissolved less than one week before its performance is commenced;
  - 100 per cent of the Contract Price if the Contract is dissolved during the performance of the Contract.

- 9.3 If the performance of the Contract is suspended by the Client, Telefication shall be entitled in each case of suspension to invoice the Client for the following amounts in addition to the Contract Price:
- a. up to 10 per cent of the Contract Price if the Contract is suspended more than two weeks before its performance is commenced;
  - b. up to 25 per cent of the Contract Price if the Contract is suspended less than two weeks but more than one week before its performance is commenced;
  - c. up to 50 per cent of the Contract Price if the Contract is suspended less than one week before its performance is commenced;
  - d. if the Contract is suspended while it is being performed, the duties agreed upon for the day on which it is suspended and the next working day shall be considered delivered in full.
- 9.4 If the performance of the Contract is suspended or interrupted for a period of more than 3 consecutive months, then the Contract shall be considered completed and the full Contract Price shall be payable plus the possible costs of:
- a) the Extra Work referred to in Article 6;
  - b) the Performance referred to in Paragraph 2 of Article 7;
  - c) the Interim Reports referred to in Paragraph 4 of Article 8;
  - d) the Suspension referred to in Paragraph 3 of this Article;
  - e) the Damage referred to in Paragraph 1 of Article 10.

## 10 Liability

- 10.1 The Client shall be liable for any damage sustained by Telefication as a result of the Client's failure to provide Telefication with information or sufficient information concerning dangers for persons and/or items required for the purpose of performing the Contract.
- 10.2 Telefication shall only be liable for damage arising from or relating to the performance of the Contract if the relevant situation is covered by Telefication's liability insurance. Telefication's liability is restricted to the amount paid by the liability insurance in the situation concerned.
- 10.3 Telefication's liability is restricted to any direct damage arising from or relating to the performance of the Contract. Direct damage is understood to mean:
- a. the costs of repair or replacement;
  - b. any reasonable costs incurred by Telefication in order to cause its performance to comply with the Contract. This damage will not be compensated if the Client has dissolved the Contract;
  - c. any reasonable costs incurred in assessing the cause and the extent of the damage, insofar as the assessment is related to direct damage within the meaning of these conditions;
  - d. any reasonable costs incurred to prevent or restrict any damage, insofar as the Client can prove that these costs have resulted in restricting direct damage within the meaning of these conditions.
- 10.4 Telefication is not liable for any indirect damage arising from or relating to the performance of the Agreement, including consequential damage, loss of profit, loss of savings and damage due to stagnation or damage caused by government actions.
- 10.5 Telefication is not liable for any damage to or by persons, machines, equipment, test rooms and other materials or facilities which are made available to Telefication by the Client or a third party engaged by the Client. The Client indemnifies Telefication from and against all claims within this context.
- 10.6 Any Client acting under the authority of third parties shall indemnify Telefication against any claims from third parties to compensation for damage. The indemnity does not apply to damage to be compensated by Telefication by virtue of Paragraph 2 of this Article.
- 10.7 Telefication must be notified of any damage as described in Paragraphs 2 and 3 of this Article in writing as soon as possible, but no later than within four weeks after it has arisen. Any damage which has not been brought to Telefication's notice within this period of time shall not be compensated unless the Client can prove that the damage could not have been reported earlier.

## 11 Confidentiality

- 11.1 Telefication is obliged to observe secrecy in respect of all that which has come to its knowledge within the scope of the provisions of these General Conditions, insofar as the Client can reasonably impose this secrecy, unless the intended purpose of the Result or part of the Result is publication. Telefication shall impose the same duty to secrecy on those it has charged or caused to be charged with duties of a confidential nature within the scope of these General Conditions.
- 11.2 Telefication shall observe all secrecy rules relating to access to laboratories, the filing of dossiers and the performance of the Contract as well as other confidential

details, which arise from standards ISO 9001, ISO/IEC 17025, EN 45001, EN 45011 and EN 45012.

- 11.3 The Client shall observe secrecy in respect of all Telefication's business information, the confidentiality of which is certain or reasonably ought to be recognized by the Client.

## **12 Guarantee and Complaints**

- 12.1 Unless otherwise agreed, Telefication guarantees the items delivered by it for a period of one year starting from the date of delivery as regards the effectiveness of the design and the quality of the materials used. If these include supplies from third parties with lesser obligations of guarantee, Telefication will adjust its guarantee obligations proportionally. Telefication's obligations of guarantee are restricted to either repair or replacement of any faulty items or, at Telefication's own discretion, refunding of payments that have been made, without prejudice to the provisions under Articles 4, 5 and 10.
- 12.2 Submission of a complaint does not entitle the Client to postpone its payment obligations.

## **13 Force Majeure**

- 13.1 Neither the Client nor Telefication shall be entitled to dissolve the Contract and/or claim damages if the performance of the Contract is delayed through a cause beyond the other party's control, unless the force majeure continues to exist for more than three months.
- 13.2 After expiry of the period of three months referred to in Paragraph 1 of this Article, both the Client and Telefication shall be authorized to dissolve the Contract. In the event of the Client's force majeure, Telefication shall be entitled to invoice the Client for any duties performed and costs incurred until the date of cancellation.
- 13.3 Cases of force majeure shall include circumstances beyond the control of the Client and/or Telefication and which moreover shall not be at the expense of either the Client and/or Telefication by virtue of the law, legal transactions or views generally held in society.

## **14 Bankruptcy or Moratorium**

- 14.1 Both Telefication and the Client shall be entitled, without any summons or notice of default or judicial intervention being required, to dissolve the Contract by means of a registered letter in the event that the other party applies for a (provisional) moratorium or is granted a (provisional) moratorium, the other party files its petition in bankruptcy or is declared bankrupt, the other party's business is liquidated, the other party discontinues its current business or the other party is otherwise no longer considered able to fulfil its obligations under the Contract. The party dissolving the Contract on one of these grounds shall retain its rights to payment and damages vis-à-vis the other party.

## **15 Final Provisions**

- 15.1 The Contract is subject to Dutch law.
- 15.2 Contrary to the legal rules for the competence of the civil court, Telefication is authorized to summons the Client to appear before the Court in Arnhem.
- 15.3 Telefication is entitled to change these conditions and to declare that the changed conditions are applicable to current Contracts. If Telefication declares that changed conditions are applicable to current Contracts, Telefication shall notify the Client of the changes well in advance. The changed conditions shall then become effective 30 days from this written notice or on a later date referred to in this notice. If a Client does not wish to accept a change in the conditions, it shall be entitled to cancel the Contract as of the date on which the changed conditions come into effect.
- 15.4 These "General Conditions of Telefication bv" have been filed with the Chamber of Commerce and Industry in Arnhem.