

# General Terms of Sale and Delivery

Effective as of January 1st 2012.

## 1. General provisions

These General Terms of Sale and Delivery shall apply to all offers, orders and deliveries from SmartShare Systems A/S, Tonsbakken 16-18, 2nd floor, 2740 Skovlunde, Denmark, Central Business Register (CVR) no. 29 92 05 91, unless otherwise agreed in writing between the parties. No other special or general terms and conditions indicated by the buyer in any tender, order, acceptance, condition for purchase etc shall prevail over these General Terms of Sale and Delivery, and these General Terms of Sale and Delivery shall supersede any prior arrangements made or existing between the parties in relation to purchases made as from the effective date of these General Terms of Sale and Delivery, unless otherwise explicitly accepted by SmartShare Systems in writing. THESE GENERAL TERMS OF SALE AND DELIVERY LIMITS THE RIGHTS AND REMEDIES GENERALLY AVAILABLE TO THE BUYER UNDER DANISH LAW AND SHOULD BE READ CAREFULLY BY THE BUYER PRIOR TO THE PURCHASE OF ANY PRODUCTS.

## 2. No sale to consumers

SmartShare Systems sells its products only to professional distributors and resellers who purchase the products for the purpose of reselling them. The term "buyer" as used herein is presumed to be such a distributor or reseller.

## 3. Prices

All prices and amounts are in Danish kroner unless otherwise specified in price lists and are exclusive of VAT. SmartShare Systems also trades in EURO and USD.

All offers made by SmartShare Systems are non-binding and shall be construed as an invitation to make an offer, until SmartShare Systems has issued an invoice or order confirmation.

The price of the product includes (where applicable and unless otherwise stipulated by the SmartShare Systems) the license fee for the right to use the software embedded in the product by the end-user of the product. For every order confirmed by SmartShare Systems, SmartShare Systems reserves the right to charge an order handling fee of DKK 100, regardless of the number of products included in the order.

## 4. Payment

The terms of payment are net cash on delivery, unless otherwise agreed. If the buyer fails to make payments at the agreed time, SmartShare Systems may, from the agreed due date of such payments, or of no special due date has been agreed, from the time of delivery, charge default interest on the balance due at any time at an agreed rate of 2% for every month entered into. A fee of DKK 100 will be charged for every reminder sent to the buyer. Payments by the buyer will primarily be used to pay any accrued interest and costs and secondly to pay the principal amount.

SmartShare Systems retains ownership of any product, until the buyer has paid the amount owed to SmartShare Systems for the product in full, including accrued interest.

The Buyer is not entitled set off any claim against payment for products unless such claim concerns legal matters relating to the products in question. The Buyer has no right of retention in any relation. Further, the buyer is not entitled to withhold payment as a result any counterclaim not accepted by SmartShare Systems.

## 5. Delivery

The products are delivered Ex Works (as defined in Incoterms 2000) SmartShare Systems' business address

stated in Clause 1 of these General Terms of Sale and Delivery, for collection by the buyer.

Any delivery from SmartShare Systems' business address takes place at the risk and cost of the buyer, and any costs incurred due to such delivery, including payment fees, payment card fees, postage and insurance costs etc will be added to the price of the product, unless otherwise agreed. Any stated time of delivery is, unless otherwise agreed, indicative, and the period allowed for delivery starts running from the time when SmartShare Systems is in possession of all the information necessary to deliver the products. The buyer is not entitled to claim compensation or to terminate the contract if a delivery is delayed. If a product which the buyer has agreed to collect is not collected within four business days of the date of invoice, SmartShare Systems reserves the right to charge an administrative fee of DKK 300 per order as well as any costs relating to the storage hereof, and not deliver the product to buyer before all due amounts have been paid. If the product has not been collected within 15 business days from the date of invoice, then SmartShare Systems shall be entitled to terminate the order and keep any received payments without deduction of any kind or if no payments have been received to claim damages from buyer in accordance with ordinary Danish law, upon a written notice of 5 business days.

## 6. Return of products

Products are not returnable.

In exceptional cases and subject to prior written agreement, orders for standard stock products may be cancelled and standard stock products may be returned only if returned its original state and unopened packaging. Orders for non-stock products produced for a specific Buyer cannot be cancelled, and such products are not returnable. In case of SmartShare Systems having agreed to return of products/cancellation of orders and if nothing else has been agreed, SmartShare Systems reserves the right to charge a fee of 15% of the invoice value, the minimum charge being DKK 500, and the buyer is credited for any returned product at the invoice value with the deduction of SmartShare System's mentioned fee.

## 7. Product details

Product information, illustrations, drawings, brochures, sales material and information on technical data, e.g. volume, load capability, performance, response time etc. in sales material, presentations, on SmartShare Systems webpage etc is illustrative only, and SmartShare Systems is not responsible for the accuracy hereof, including any indicated prices. Further, SmartShare Systems may without notice change prices without correcting any such material.

## 8. Software

The products may contain embedded software and software supplied on a CD, USB, other media or via the internet. The end-user's use of the products is subject to an End User License Agreement ("EULA"), which inter alia grants the end-user a limited, non-exclusive license to use such software as a part of the product as delivered only. The buyer shall ensure that the EULA supplied in hard copy with the products is delivered to the end-user and that the end-user is the one accepting the EULA enclosed in the software as click-through or otherwise. The license under the EULA is non-transferrable, except that the license is automatically transferred to any owner of the hardware in which the software is embedded or to which the software relates. SmartShare Systems, or any of its sub-contractors as may be, retains full title, including copyright, in and to any software, embedded or otherwise, and any copies thereof as well as any future versions hereof. All rights not expressly granted are reserved by SmartShare Systems or its sub-contractors as may be.

The buyer shall ensure that the end-user is informed of the terms of this clause.

## 9. Warranty, defects and liability

SmartShare Systems is liable only in accordance with the Danish Sale of Goods Act and with the modifications specified in these General Terms of Sale and Delivery.

SMARTSHARE SYSTEMS EXPRESSLY DISCLAIMS ANY AND ALL WARRANTY (in Danish "Garanti") IN RELATION TO ANY PART OF THE PRODUCTS, HARDWARE AS WELL AS SOFTWARE, EXPRESS OR IMPLIED.

The buyer must carefully inspect the products delivered on receipt in accordance with good business practices, insofar that the buyer is not required to open any original packaging of the products made by SmartShare Systems. If the buyer wants to make a claim due to a defect, the buyer must give SmartShare Systems written notice hereof immediately, including a specification of the defect, upon discovery of the defect or if the defect is discovered by the buyer's customer, then upon receipt of the notice from the buyer's customer regarding the defect. If the buyer has established or ought to have established the defect, but fails to give notice as required, the buyer cannot later rely on such defect. In any and all events SmartShare Systems liability lapses if the buyer does not give notice of a defect within three (3) months from the date of delivery of the product. As to parts that have been replaced or repaired within this period, the period is extended with a further 45 days

Having received a notice of a defect, SmartShare Systems may ask the buyer to return the allegedly defective product in its original packaging at the buyer's expense and risk. SmartShare Systems reserves the right to receive only the part of the product, which is claimed to be defective. SmartShare Systems reserves the right to test products which have been returned due to defects. If, having completed testing of the product, SmartShare Systems finds that the returned product is not defective, the product will be returned to the buyer who will be charged for the time spent on testing. The price for such work as of 1 June 2010 is DKK 1,800 for every commenced hour.

The buyer's rights and remedies are in any and all events and aspects limited to demand that SmartShare Systems remedy the defect by repairing the product, delivering a substitute product of at least the same quality or credit the buyer with the current price of the product as at the date of the notice of defect, the choice between which shall be at the sole discretion of SmartShare Systems. ANY AND ALL OTHER RIGHTS AND REMEDIES ARE EXPRESSLY DISCLAIMED, INCLUDING DAMAGES OF ANY KIND REGARDLESS OF THE BASIS HEREOF.

## 10. Limitation of liability

SmartShare Systems is not liable for any delay or defect resulting from remedial work or product substitution or attempted remedy or substitution. Further, SmartShare Systems is not liable for (a) defects or damages resulting from fire, water or theft, (b) defects, damages, or loss resulting from intentional misuse, abuse, neglect, or alterations by, or directed by, the owner of the Product, (c) defects or damages resulting from service or repair by anyone other than SmartShare Systems, and (d) use and operation of the Equipment outside the specifications outlined in the User Manual (UM).

If a third party rightfully claims that any use of any software - whether embedded in the hardware or otherwise - infringes the intellectual property rights of such third party, this shall be regarded as a material defect in the product and SmartShare Systems shall in its sole discretion in order to remedy the defect be entitled to: (i) obtain a continued license for use of the software, (ii) stop the infringement by modifying the software or replacing the software with software with similar functionalities as the software, or (iii) rescind the purchase without notice and without liability of any kind and refund the purchase price received from the buyer.

IN NO EVENT - INCLUDING IF A COMPETENT COURT OF LAW SHOULD SET ASIDE ANY DISCLAIMER OF LIABILITY - IS

SMARTSHARE SYSTEMS LIABLE FOR ANY OPERATING LOSS, LOSS OF PROFIT, LOSS OF DATA OR COSTS FOR RECONSTRUCTION OF DATA OR ANY OTHER INDIRECT OR CONSEQUENTIAL LOSSES. SHOULD SMARTSHARE SYSTEMS BE DEEMED LIABLE, THE AMOUNT OF ANY DAMAGES OR ANY INDEMNIFICATION CLAIMED FROM SMARTSHARE SYSTEMS CAN NEVER EXCEED THE AMOUNT INVOICED TO THE BUYER FOR THE PRODUCT TO WHICH THE CLAIM RELATES, REGARDLESS OF THE BASIS FOR THE CLAIM.

## 11. Force majeure

SmartShare Systems is exempt from liability if circumstances deemed as force majeure under Danish law prevent performance of the contract or make performance unreasonably onerous, such circumstances to include acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority; shortage of supplies, equipment, materials, breakdown or shortage of equipment and labor disputes of whatever nature and for whatever cause arising, including but without prejudice to the generality of the foregoing, work to rule, overtime bans, strikes and lockouts and whether between either of the parties hereto and any or all of its employees and/or any other employer and any or all of its employees and/or between any two or more groups of employees (and whether of either of the parties hereto or any other employer) or other such events which have significantly impeded SmartShare Systems' performance of its obligations. If a force majeure event as mentioned above occurs before the date of the offer/contract, SmartShare Systems is exempt from liability only if its effect on the performance of the contract could not have been foreseen at that time.

## 12. Product liability

SMARTSHARE SYSTEMS IS ONLY LIABLE FOR PRODUCT LIABILITY UNDER SUCH STATUTORY PROVISIONS OF THE APPLICABLE DANISH PRODUCT LIABILITY ACT, WHICH CANNOT BE DISCLAIMED BY AGREEMENT, AND EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY FOR PRODUCT LIABILITY ON ANY OTHER BASIS.

The buyer must without undue delay inform SmartShare Systems in writing if (i) the buyer becomes aware of damages caused by any product sold by SmartShare Systems, (ii) any third party claims that such damages has been caused, or (iii) the possibility for such damages exists.

## 13. Waiver

Failure or neglect by SmartShare Systems to enforce at any time any of the provisions in these General Terms of Sale and Delivery shall not be construed nor shall be deemed to be a waiver of SmartShare Systems' rights hereunder nor in any way affect the validity of the whole or any part of these General Terms of Sale and Delivery nor prejudice SmartShare Systems' rights to take subsequent action.

## 14. Transfer of rights and obligations

SmartShare Systems may transfer all its rights and obligations under any contract to a third party without the consent of the buyer.

## 15. Choice of law and venue

Any agreement or dispute subject to these General Terms of Sale and Delivery as well as the rights and obligations of the Parties hereunder shall be construed in accordance with and be governed by the laws of Denmark, not including Danish international private law rules which point to a choice of law other than Danish law. If a dispute is not resolved by prior negotiation between the Parties, either Party may, upon notice, submit any dispute to resolution by the relevant city court at SmartShare System's venue (in Danish: "SmartShare Systems hjemting"), whether proceedings are commenced by the buyer or SmartShare Systems.

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