

SPECIAL TERMS AND CONDITIONS FOR

WAREHOUSE MANAGEMENT SYSTEMS

Except for any variation that is expressly described by JUNGHEINRICH in writing, all Warehouse Management Systems (hereinafter: "**WMS**") will be installed according to the following terms and conditions. A placed order confirms automatically acceptance of the general terms and conditions, these special terms and conditions and the Specifications.

Other terms and conditions that appear in correspondence or on other documentation originating from Client cannot be invoked against JUNGHEINRICH.

In the event of any inconsistency, the Special Terms and Conditions will take precedence over the General Terms and Conditions.

1. DEFINITIONS

- 1.1. WMS: a Warehouse Management System, namely a technical installation of hardware and/or software as described in JUNGHEINRICH's Specifications;
- 1.2. Order: the order that Client places with JUNGHEINRICH for the delivery, installation and/or implementation of a WMS;
- 1.3. Goods: the equipment and goods that are the subject of the Order;
- 1.4. Services: the installation, implementation and other services that are the subject of the Order;
- 1.5. Specifications: the technical requirements that apply to the installation and implementation of the WMS in connection with the Order, which Client declares to be familiar with and accept. These requirements form an integral part of the current terms and conditions;
- 1.6. Intellectual Property: all known and unknown rights, such as: (a) copyright, trade mark rights, commercial names and similar rights, (b) industrial secrets and know-how, (c) patents, drawings, models, algorithms and other industrial property rights, (d) all other intellectual and industrial property rights (worldwide and of any nature whatsoever) (including logos, rights to rent and rights to compensation), determined by law, contracts or licensing agreements and (f) all registrations, initial applications, renewals, expansions, continuances and distributions of the aforementioned rights.
- 1.7. Software: any information consisting of one or more computer or other programs, including the informative content of such programs, and any documentation delivered in conjunction with or supplementary to such programs, which are delivered electronically or in any other way to Client;
- 1.8. General Terms and Conditions: the General Terms and Conditions of JUNGHEINRICH which Client acknowledges to be familiar with and accepts.

2. EXECUTION OF THE ORDER

- 2.1. After the final order has been placed, JUNGHEINRICH will prepare Specifications on the basis of the information received from Client. These Specifications form an integral part of the contractual relationship between the Parties and include all the important project information, including the project phases and intended schedule. Both Parties will list their expert Project Leaders with decision-making authority in the Specifications.
- 2.2. Client undertakes to provide all the relevant information for preparing the Specifications to JUNGHEINRICH in due time.

- 2.3. Client is deemed to have agreed to the contents of the Specifications, with the exception of any inaccuracies set out in a written and detailed list within eight calendar days of receipt thereof.
- 2.4. The provisions of the Specifications (including the schedule) may only be amended if the Project Leaders agree thereto in writing, notwithstanding Article 2.1 of the General Terms and Conditions. Contract extras or additional costs (including by way of period changes) because of alterations to the Specifications are payable by Client.

3. SPECIAL OBLIGATIONS OF THE PARTIES

- 3.1. Client must cooperate fully in the execution of the Order by JUNGHEINRICH and immediately provide answers to all questions asked in connection with the Order. More specifically, Client undertakes to provide all documentation and information that is necessary and/or useful for the performance of the contractual obligations, particularly with regard to installations and machine programs, or parts thereof, that must be connected to the WMS.
- 3.2. Client undertakes to make all arrangements by the time of delivery to ensure a faultless installation and commissioning. In particular, Client will make the following arrangements:
 - ✓ connect all components that it must deliver on time;
 - ✓ arrange for cabling in accordance with the requirements of the Specifications;
 - ✓ observe the hardware conditions as described in the Specifications;
 - ✓ arrange for proper conditions (e.g. temperature) in the areas where the hardware will be placed;
 - ✓ provide properly lit, lockable and adequately large premises during the installation and commissioning of the WMS;
 - ✓ provide a telephone connection for use by JUNGHEINRICH'S installers at Client's expense;
 - ✓ ensure the connection of the WMS to Client's network;
 - ✓ provide the necessary network hardware, according to the Specifications;
 - ✓ provide the interface for the connection to the WMS in due time;
 - ✓ arrange for the definition and availability of test data;
 - ✓ provide the basic data according to the Specifications;
 - ✓ provide unhindered access to the existing installations and apparatus for

JUNGHEINRICH'S installers during the installation and commissioning period for the purpose of executing the Order;

- ✓ provide qualified employees to assist JUNGHEINRICH'S installers, where needed or expedient, who are able to make binding decisions on behalf of Client;
 - ✓ adopt all necessary measures for the protection of people and items.
- 3.3. Client also undertakes to provide the necessary personnel and equipment to JUNGHEINRICH, free of charge, to enable JUNGHEINRICH to effectively perform its work. Parties expressly accept that JUNGHEINRICH in no way bears any responsibility for the personnel and/or equipment to be provided to it. Client undertakes to fully indemnify JUNGHEINRICH against any claim in that regard.
 - 3.4. If Client does not fulfil its obligations as described in this article, JUNGHEINRICH will be entitled to suspend the further performance of its obligations, without this giving Client the right to any compensation of any nature whatsoever.
 - 3.5. JUNGHEINRICH will give the qualified employees, who are assigned to it by Client, instructions relating to the use of the installation, as provided for in the Specifications. This training will take place immediately after the installation is carried out, on Client's premises. Further instructions (e.g. operating system and databank training) do not form part of the Order.
 - 3.6. Although JUNGHEINRICH undertakes to comply with all reasonable directives, the Parties accept that it is not in any way deemed to know the safety rules applicable on Client's business sites and/or have signed for these as proof of agreement. In this regard, Client undertakes to inform the employees and/or representatives of JUNGHEINRICH of the directives to be observed and to always guide and assist them as from the time they enter the business site.
- ### **4. SUBCONTRACTING**
- 4.1. For the purpose of executing the order, JUNGHEINRICH is entitled at all times until the time of delivery to outsource all or part of the Order to one or more subcontractors.
- ### **5. DELIVERY AND FUNCTIONAL TESTING**
- 5.1. On completion of the Order, JUNGHEINRICH will invite Client by registered letter to inspect the WMS at a specified time on a specified date. Unless altered, this will take place at

the time and according to the procedure laid down in the Specifications.

- 5.2. If and insofar as provided for in the Specifications, Client may test the installation for a specified period. These tests will commence on the first working day after notice to Client that the system is ready for operation. If Client discovers defects or bugs during this testing period, it must notify JUNGHEINRICH hereof in writing immediately via the procedure laid down in the Specifications, so that JUNGHEINRICH can implement the necessary improvements.

- 5.3. Insofar as all performances are in accordance with the Specifications, Client is obliged to accept the delivery. If there are no comments, the delivery protocol will be prepared in duplicate and signed by all Parties.

Client expressly acknowledges that only substantial defects which impede operation and/or commissioning may give cause for a refusal of delivery.

If only minor faults or defects are discovered, these will be mentioned in the delivery protocol and a date will be determined by which the work to remedy these must be performed and completed. However, such minor defects may not be a basis for postponing payment.

- 5.4. If Client does not cooperate for the purpose of delivery, it will be deemed, unless provided otherwise in the Specifications, to have accepted the installation and Goods, within four weeks of the notice that the WMS can be put into operation. This also applies if Client fails to carry out the functional testing, does not complete the testing or does not share the results thereof. The commissioning of the installed system will also be regarded as a sign of tacit acceptance of delivery by Client.

6. MAINTENANCE

- 6.1. Client acknowledges that it is aware that the WMS must be inspected and maintained on a regular basis by a specialised service in order to guarantee the proper functioning thereof.

7. SOFTWARE AND INTELLECTUAL PROPERTY

- 7.1. Provided all applicable contractual terms and conditions are fulfilled, JUNGHEINRICH grants Client an open-ended, non-exclusive, personal licence to the Software for the supplied WMS. This licence is not transferable and sub-licences may not be

granted. Client may only use the Software within its own business in support of its own normal commercial operations and must prevent third parties from gaining knowledge of or being able to use the Software. Client is obliged to immediately inform JUNGHEINRICH of any unauthorised access or possible unauthorised access to the Software.

- 7.2. The Software and Intellectual Property relating to the WMS system will remain the property of JUNGHEINRICH or, where applicable, its licensor. Client is not entitled and has no interest in reproducing, reverse-engineering (with the intention of finding out and obtaining the source code), adapting or translating the Software or in any way creating derived works based on the Software. Client acknowledges that all information and ideas for the WMS and the Intellectual Property relating to the WMS, as well as any possible improvement, invention, adaptation and development thereof will remain the exclusive property of JUNGHEINRICH. Client must adopt all possible measures to assist JUNGHEINRICH in the protection of these rights. Client may not in any way knowingly and wilfully allow a third party to reproduce, reverse-engineer, adapt or translate the Software or in any way create derived works based on this Software.

- 7.3. JUNGHEINRICH reserves the right to use the information obtained in connection with the Order for other purposes, insofar as no confidential information is disclosed to third parties in this way.

8. CONFIDENTIALITY

- 8.1. Parties undertake to maintain confidentiality with regard to all confidential information that they become aware of during the execution of an Order.

Confidential information includes all information of any nature that the parties become aware of during the execution of an order relating to the project and all other strategic commercial information, however excluding that information which has already been disclosed or belongs to the 'public domain'.

- 8.2. Parties also warrant that their personnel, employees and/or subcontractors will observe this duty of confidentiality.

9. LIABILITY

- 9.1. Client accepts that it will bear exclusive and sole risk for the use of the WMS and the Software after the completion of any envisaged functional tests and in every way after delivery according to Article 5. Article 8

of the General Terms and Conditions apply in this regard.

- 9.2. If third parties invoke an infringement of intellectual property rights or security rights with regard to the WMS/Software that was ordered and/or delivered, JUNGHEINRICH will be entitled at its expense, and at its discretion, to either negotiate a right of use, adapt the WMS/Software in such a way that the rights of third parties are definitely not affected, or exchange the supplied Software/Goods (or the relevant parts thereof). If this is not possible under reasonable conditions, Client will be free to abandon the Agreement.

10. WARRANTY

- 10.1. The warranty and liability provisions in the General Terms and Conditions are applicable, on the understanding that a 12-month warranty is provided regardless of the number of working hours, to be calculated from the delivery provided for in Article 5. Only the manufacturer's warranty applies to calculation hardware. Any recourse lapses as soon as Client performs work or has work performed by third parties on the supplied Goods, if the supplied Goods are not used according to JUNGHEINRICH'S instructions or if the supplied Goods are not used for their intended use.

11. APPLICABLE LAW & JURISDICTION

- 11.1. Only Belgian law applies to these Special Conditions and the legal consequences arising from it.
- 11.2. All disputes that may arise from these Special Conditions will fall under the exclusive jurisdiction of the district courts of Leuven.

Version 04/2010

The current Special Terms and Conditions are also available in Dutch and French upon simple request.