

# SHIPPING TECHNOLOGY

GENERAL DELIVERY TERMS AND CONDITIONS



## Introduction and FAQ

Thank you very much for your interest in the Shipping Technology ST BRAIN! This document contains the terms and conditions that apply to the purchase and use of the ST BRAIN. Among other things, the terms and conditions contain rules regarding the delivery and installation of the ST BRAIN, the use of the data collected by the ST BRAIN, and the terms and conditions that apply to the use of our software. In this introduction we answer the most frequently asked and important questions.

### What is the ST BRAIN

The ST BRAIN is a powerful computer to which nautical equipment is connected. This ST BRAIN collects the data produced by nautical equipment and sends it to the cloud using a cellular network. The installation of the ST BRAIN is carried out by Shipping Technology's installation partners. The ST BRAIN can be remotely updated with new software.

### What data does the ST BRAIN collect?

The ST BRAIN collects and retrieves data from, among others, the radar, pilot, echo sounding, load meter, GPS (fore and/or aft), engine management (main engines), windmeter, and—optionally—from cameras, marine VHF radio, and possibly from other nautical systems, as well as public sources.

### What will happen with the data that has been collected?

The data is analysed by Shipping Technology and made available to you via an online environment you can log onto. The goal is to make your data more valuable for you by analysing and combining it in smart ways. Shipping Technology will use all the data it collects to develop new software tools that can help you with steering and navigating your ship. The data will be securely stored on servers located within the EEA.

### Will privacy-sensitive data be processed as well?

Yes, that is possible. It could relate to the location of the ship and in certain cases camera footage showing the crew. We process, store, and secure these personal data in accordance with the applicable regulations (the General Data Protection Regulation or GDPR) and our Privacy Statement. You are required to provide the Privacy Statement on behalf of Shipping Technology to the crew working on board the ship on which the ST BRAIN has been or will be installed.

### What advantages will the ST BRAIN offer me?

Immediately valuable is that you can use the ST BRAIN to gain online access to Data generated by nautical equipment. This means that you can monitor your ship remotely. Current data, but also data collected over time. In addition, Shipping Technology will use the data collected by it from all clients to—in addition to the local ST BRAIN functionality—develop new software that is valuable for clients and can be used with additional Subscriptions. These products will be risk reducing, cost saving, or possibly even revenue generating in nature. In principle, these products will also be made available through the ST BRAIN. In that sense, the ST BRAIN is an investment in the future, with the end goal of making (semi-)autonomous shipping possible.

### Will my vessel be able to completely sail itself in the future?

Shipping Technology strives to develop the technology that will make this possible! For now however, each ship will still require the legally required crew and the crew will remain responsible for safely steering and navigating the ship. Additionally we are of course dependent on laws regulating what crew is required on a ship.

### What does the ST BRAIN cost?

The ST BRAIN itself is supplied by us for a fixed amount that includes installation and activation. The exact costs for this depend on the situation on your vessel and will be laid out in the main agreement you sign with us. All software tools offered by us are supplied for a monthly licence fee. Those fees differ for each software tool and are laid out in separate subscriptions.

### Will I be tied to long-term contracts?

No. Subscriptions for the use of software tools are entered into for a certain period of usually one year—unless agreed otherwise. After that the subscriptions can be cancelled on a monthly basis.

### Can I carry out an acceptance test?

Because we offer our software to all our clients based on the same software code and therefore continuously test and improve it, acceptance tests are unnecessary and not offered by Shipping Technology.

### Does Shipping Technology offer an SLA?

For the availability, maintenance, and possible repair and other service levels for our software, we can offer a custom service level agreement per separate software tool if necessary. As our software is the same for all our clients, SLAs cannot be individualised per client. Naturally we continuously improve our software and add functionalities to help our clients.

### How about liability?

We understand that our clients want to have as much certainty as possible regarding the availability of our service, the security of their data, and possible consequences of unexpected damage. We primarily satisfy these concerns by offering good backup and recovery facilities. The software and all data are stored on servers that are managed by Shipping Technology and are hosted secure, advanced data centers with fully redundant backup systems inside the European Economic Area (EEA). In addition to these technical measures, we have taken out a liability insurance.

*The above introduction and Q&A is not part of the agreement and is for informational purposes only. No rights can be derived from it.*

## GENERAL PROVISION

These Terms and Conditions describe the relationship between Shipping Technology and Client and contain agreements about the access of Client to the Shipping Technology Application and the supplying of Services by Shipping Technology. By signing the Agreement (in writing, with an electronic signature, or click to agree) the signing person declares to be authorised to represent Client and be bound to the Agreement and these Terms and Conditions.

### Artikel 1 Definitions

**1.1** The following terms have the following meaning in these Terms and Conditions and the Agreement:

*Subscription:* An Agreement between Client and Shipping Technology for the supplying of and/or carrying out of (a range of) certain Services.

*ST BRAIN:* Hardware that is supplied by or on behalf of Shipping Technology as part of or related to the Services.

*Data:* Data or information that is collected by Shipping Technology (including using the ST BRAIN) that can be made available to Client using an Online Environment and that can be used by Shipping Technology for the development and supplying of Services and Software, including data from third parties, such as related to the weather, traffic, water levels, port facilities, docking options, loading schedules, maintenance to waterways and bridges, locations of other vessels, updates to existing nautical equipment, and data from existing nautical equipment including data that comes directly from Client, its equipment, vessels, or information systems.

*Services:* All services that Shipping Technology supplies to Client and that are part of the ST BRAIN or a Subscription, including providing access to Software, data service, information services, visualisations of Data, providing information or data (from third parties), functionalities (from third parties) or (digital) content (of third parties), and possibly separately agreed upon maintenance services.

*IP Rights:* All rights related to intellectual property and related rights, everywhere in the world, including copyright, trademark rights, brand rights, model rights, database rights, know-how rights, and other intellectual and industrial property rights, as well as similar rights.

*Online Environment:* The Online Environment secured with a password that can give Client insight into the Data via an internet connection.

*Client:* The legal person that enters into an Agreement with Shipping Technology. *Licence:* A temporary right to use Software that can be given to a Client by taking out a Subscription.

*Agreement:* The (written or electronic) agreement between Parties on the bases of which Shipping Technology sells the ST BRAIN to Client and/or offers Services to Client and/or offers a Subscription to Client. *Party/Parties:* Shipping Technology and/or Client where applicable.

*Shipping Technology:* The limited liability company Shipping Technology B.V. with its registered office in Rotterdam and listed in the trade register of the Chamber of Commerce under number 72212330.

*Software:* Computer programmes developed by Shipping Technology and offered to Client, including the works therein and information and the (access) security of it, regardless of the way in which it is made available and including all updates, changes, or revised versions.

*Terms and Conditions:* These general delivery terms and conditions for the Shipping Technology ST BRAIN.

**1.2** When terms such as 'including', 'such as', 'like', 'also', 'among others', or similar phrases are used, other matters are expressly not excluded.

### Artikel 2 Applicability of and changes to the Terms and Conditions.

**2.1** These Terms and Conditions apply to all Agreements and all quotations, offers, and invitation to tender from Shipping Technology and are an integral and inseparable part thereof. The applicability of any (general) (purchasing) terms and conditions of Client are hereby expressly rejected, regardless of whether or not a reference is made to these terms and conditions in the Communication between Parties. If both these terms and conditions and others apply on an Agreement, the provisions in these Terms and Conditions will prevail in case of any conflicts.

**2.2** When these Terms and Conditions apply to a legal relationship between Parties, they automatically apply to all later legal relationships between Parties.

**2.3** Shipping Technology has the right to unilaterally change the Terms and Conditions. If possible, Shipping Technology will inform Client two months before the planned changes go into effect. If Client does not agree with the planned changes, its only recourse is to terminate the Agreement by the first possible date of notice of termination or by the date on which the planned changes will go into effect if that is sooner. For other matters deviations from these Terms and Conditions can only be agreed to in writing between Parties and these will only apply to that specific Agreement, unless Parties expressly agree otherwise.

**2.4** Client will inform all of its employees who will be given access to the ST BRAIN, the Software, and/or other Services of the Terms and Conditions and ensure that they are complied with.

### Artikel 3 Offers and formation of the Agreement

**3.1** All offers and quotations related to the ST BRAIN and/or the Services are without obligations and revocable. All quotes from Shipping Technology are valid for two months from the date on the quote, unless expressly mentioned otherwise in the quote. The description of the ST BRAIN and/or the Services and all prices, functionalities, specifications, and other data mentioned in the quote have been composed as carefully as possible, but do not bind Shipping Technology unless they have been expressly confirmed in writing by Shipping Technology. Any offer is subject to changes and as long as supplies last.

**3.2** Agreements are only formed by an express confirmation in writing (including electronic) of an order by Shipping Technology and provided that Client meets all Terms and Conditions as mentioned in these Terms and Conditions.

**3.3** Shipping Technology may refuse an order without specifying a reason or without being obligated to pay any form of compensation or reimbursement for damages.

### Artikel 4 Execution of the Agreement

**4.1** Shipping Technology will execute the Agreement to the best of its abilities and in accordance with the requirements of proper professionalism. The ST BRAIN and all Services are supplied and installed by Shipping Technology on a best effort basis and on an as is basis, unless and insofar as Shipping Technology has expressly promised a result to Client and that result has been described with sufficient specificity.

**4.2** Unless otherwise agreed and without prejudice to Article 5, matters are delivered at the agreed delivery site at the expense and risk of Shipping Technology. In the case of international deliveries, the delivery term DDU of the (latest version of the) Incoterms applies.

**4.3** The ST BRAIN, the Services, and the Software are complex, advanced, and innovative products and services that are subject to constant development. Shipping Technology does everything in its power to ensure that its service meets Client's expectations. However, it cannot offer guarantees that the data from the ST BRAIN that is made available to Client via the Online Environment is accurate, complete, or current. Nor can Client derive any right from that, nor does Shipping Technology guarantee that the ST BRAIN, the Services, or the Software are always free of errors or will always function without interruption. In as far as Services or Software take over certain tasks of Client or employees of Client, Client or said employees will always remain fully responsible and liable for the carrying out of those tasks, regardless of the assistance they may receive from the Software.

**4.4** Shipping Technology does not guarantee that the ST BRAIN, the Software, and/or the Services will (continue to) function (fully and correctly) when they are used in combination with computer programmes or hardware other than those specified in the requirements.

**4.5** Shipping Technology decides the manner of delivery. Delivery in parts is allowed.

**4.6** Shipping Technology has the right to have certain work carried out by third parties. These Terms and Conditions also apply to third parties that are engaged by Shipping Technology.

**4.7** Delivery times are estimates and do not represent deadlines. When Shipping Technology has been informed about a circumstance that could possibly prevent timely delivery, Shipping Technology will consult with Client. Exceeding of delivery times does not give Client the right to compensation for damages, termination of the Agreement, suspension, or default of any obligation on its part which stem from the Agreement in question or any other related Agreement.

**4.8** Unless expressly agreed otherwise, Shipping Technology reserves the right to charge shipping costs.

**4.9** Shipping Technology has the right to, at any time, suspend, limit, cease, or change the delivery of the ST BRAIN and/or the Services, the access to the Software, and (the content and/or functionalities) of the Software and/or Services without prior notification, without having to pay any compensation or reimbursement for damages, including those caused by the functionalities no longer being present. If reasonably possible, Shipping Technology will inform Client in a timely manner prior to the suspension, limitation, cessation, or change.

### Artikel 5 Risk, Transfer of title and Retention of Title

**5.1** The risk of damage or loss of the ST BRAIN is transferred to the Client at the moment the ST BRAIN has been installed and activated and Shipping Technology has confirmed activation remotely.

**5.2** The items delivered by Shipping Technology remain the property of Shipping Technology until they have been fully paid for by or on behalf of Client and have been installed at Client and Client has met its other obligations. The delivered items, for as long as not all obligations have been met, can be reclaimed by Shipping Technology, with Client then being obligated to return all these items to Shipping Technology at Client's expense at the first request. After the request, compliance by Client will not be able to transfer ownership to Client.

**5.3** Items that fall under retention of title may only be sold in the context of normal business operations and in accordance with the applicable conditions. Client is not allowed to pawn or in any other way encumber items that fall under retention of title.

**5.4** Client is obligated to insure and keep insured items that are delivered under retention of title against damage and theft.

**5.5** In the event of non-payment of a payable amount, including non-payment within the agreed time period, (request of) suspension of payment or bankruptcy, dissolution of Client's business, or the liquidation of Client's assets, any provisional claim (of ownership) Client might have on the delivered items will legally lapse, and Shipping Technology will have the right to take back its property without notice of default and without court intervention, while taking into account what has possibly

already been paid, but without prejudice to the right to demand reimbursement for missed profits and/or incurred losses or damages. In those cases, any claim by Shipping Technology will immediately become due and payable.

#### **Artikel 6 Obligations of Client**

**6.1** If work has to be carried out at the Client's location or at a location indicated by Client by Shipping Technology or third parties engaged by Shipping Technology in the context of the Agreement, Client will freely provide reasonably expected facilities to the employees in question.

**6.2** Client will provide Shipping Technology with all information and cooperation necessary for the delivery of the ST BRAIN and the Services, including any needed authorisations and approvals for requesting Data at third parties, access to Client's Data, information on equipment, software and network connections, and access to Client's commercial property. All (changes in) circumstances that could impact the delivery of the ST BRAIN and the Services are to be communicated by Client to Shipping Technology without delay, including in writing. The ST BRAIN and the Services are delivered based on data and information known to Shipping Technology. If this information comes from Client, Client guarantees the accuracy, completeness, and relevance of that information.

**6.3** Client will ensure adequate security of its information systems and all data processed therein and is responsible for taking the necessary measures to protect the ST BRAIN, the Software, and its own equipment against viruses and unauthorised access and use by third parties.

**6.4** Client guarantees to not access the ST BRAIN and/or the Services in any other way than with the help of the Software and/or the means that have been provided by Shipping Technology or its licence providers for that access.

**6.5** Client guarantees not to remove, change, or make illegible any indications related to intellectual property rights or legally mandated information, markings, and/or (brand) logos from the ST BRAIN or the Software.

**6.6** For installation, implementation, and optimal use of the ST BRAIN and for optimal use of the Services, there are certain (minimal) requirements for the system, the software, the hardware, and/or the network connection of the Client, which may change over time. Client guarantees that its system, software, hardware, and/or network connection is reasonably suitable for use in combination with the ST BRAIN and the Services, that it is equipped with the right connections, and that it at least meets any (minimal) requirements that have been communicated to Client by Shipping Technology.

**6.7** Indien de omstandigheden bij Klant zodanig zijn dat Shipping Technology ten behoeve van installatie, ingebruikname en/of optimaal gebruik van de ST BRAIN en/of voor optimaal gebruik van de Diensten, werkzaamheden zou moeten verrichten die in redelijkheid niet van haar verwacht mogen worden onder de geldende Overeenkomst en/of de daarvoor overeengekomen vergoedingen, zal Shipping Technology geen enkele verplichting hebben zulke werkzaamheden uit te voeren of levering en/of installatie te voltooien.

#### **Artikel 7 Use of Data**

**7.1** The ST BRAIN will collect Data, including from equipment present at Client's location or managed by Client. Insofar as Parties do not agree otherwise, Shipping Technology will be allowed to collect all data to which it has access through the ST BRAIN.

**7.2** Shipping Technology will analyse, combine, and in other ways process this Data and make the (results of that) available via the Online Environment or through the use of (other) interfaces or signals, this in as far as that is possible and it can in any way be relevant to Client in the exclusive opinion of Shipping Technology.

**7.3** In addition, Shipping Technology will use the collected Data and the Data it collects from other clients to develop (or have third parties develop) Software that is valuable to Client that can be used by Client under a yet to be agreed on Agreement and, in principle, can be made available via the ST BRAIN.

**7.4** Shipping Technology will only use Data that can directly be traced back to Client, Client's employees, or Client's property and specific Data that has to be deemed confidential for other reasons in ways that will not be made known to third parties, except for insofar as this is necessary for the service to Client or for the development of new Software by third parties. In these latter two cases, Shipping Technology will demand secrecy from these third parties regarding the Data, in accordance with Article 9. This Data will be stored by Shipping Technology on servers within the EEA.

**7.5** All (IP) rights on the (collection of) Data collected, created, analysed, combined, or in other ways processed by Shipping Technology, and all (IP) rights on any results of such Data and data processing will belong fully to Shipping Technology, this in compliance with Article 8. In addition to and notwithstanding the other provisions in this article, Shipping Technology therefore also has the right to use the Data and have access to it in any possible way.

**7.6** Client is responsible and liable for the contents and accuracy of the Data that comes from Client, for the legitimacy of the use of Data by the Client, and for (the accuracy and legitimacy of) any authorisations and licences provided to Shipping Technology by Client for Data from third parties. Client fully indemnifies Shipping Technology in this matter.

#### **Artikel 8 Intellectual Property Right**

**8.1** All IP rights related to (parts of) the ST BRAIN, the Services, and the Software, including programmes, APIs, databases, designs, texts, and images, and any related documentation provided by Shipping Technology for the use, installation, or maintenance are the exclusive property of Shipping Technology or its licence provider(s). Nothing herein can be interpreted as a transfer of those rights. Client will only get the limited usage rights that have been expressly mentioned in the Agreement and these Terms and Conditions.

**8.2** Client is not allowed to copy or in any way make public or duplicate the products end/or services or parts thereof supplied by Shipping Technology, unless this has been expressly agreed with Shipping Technology in writing.

**8.3** All IP rights on (the collection of) the information or data collected, created, analysed, combined, or in any other way processed by Shipping Technology in the context of its service to Client, including the Data and all IP rights on any results of such (collections of) data or information and data processing belong fully to Shipping Technology. In the event that there are no IP rights related to the intended data, information, and results and/or in case the IP rights cannot belong to Shipping Technology, Client will in no way resist against any use of said data, information (including the Data), or results by Shipping Technology.

**8.4** Insofar as the IP rights mentioned in Article 8.3 do not legally belong to Shipping Technology, Client hereby fully transfers any IP rights it holds to Shipping Technology, in- sofar as is necessary because of delivery in advance. Insofar as delivery in advance is not possible, Client obligates itself hereby to do and refrain from doing anything in order to complete a transfer at a later time, including signing a further deed. Client also authorises Shipping Technology irrevocably to sign a deed of transfer on behalf of Client.

**8.5** Insofar as the previously mentioned transfer of IP rights turns out to be ineffective, Client hereby grants Shipping Technology the exclusive (with the exception of Client) sub-licensable, global, eternal, royalty-free, and irrevocable right to use the intended data, information (including the Data), and results in all possible ways, including all possible ways that are necessary for the supplying of the Services and for the purposes of developing new Services and Software to the insight of Shipping Technology, whether or not for Client.

**8.6** Client rejects all personality rights mentioned in Article 25 of the Dutch Copyright Act, insofar as is allowed in accordance with that legal provision and will not call itself creator, discoverer, or inventor of any materials, discoveries, or findings in the context of the Agreement.

**8.7** Shipping Technology will only provide access to Data insofar as has been determined in Article 7.2 or insofar as it is necessary in the context of providing services under a Subscription. Client agrees that Shipping Technology retains full control of all Data and that Client therefore has no power over it, except insofar as determined in these Terms and Conditions or the Agreement.

**8.8** Insofar as IP rights related to Data from a third party belong to a third party or otherwise require authorisation from third parties for use, Client accepts to have to enter into a (licence) agreement with said third party, and Client hereby authorises Shipping Technology to do so for or on behalf of Client.

**8.9** Regarding the providing, making available, and/or enabling access of Data to Shipping Technology, and regarding the transfer and licence of IP rights as described in this article Client guarantees that (i) Client is fully authorised to do so, (ii) Client has (acquired) all necessary rights, (iii) this does not violate any rights of third parties or is illegitimate in any other way, and (iv) that Shipping Technology will owe no fee or compensation to a third party as a result. Client fully indemnifies Shipping Technology of any claims by third parties in this matter and of any related damages and costs.

**8.10** Any violation by or on behalf of Client of the IP rights of Shipping Technology or its licence providers, and any violation of the licences provided with the Agreement or the Terms and Conditions, give Shipping Technology grounds to dissolve the Agreement in writing immediately without court intervention, without prejudice to any other rights of Shipping Technology, including the right to claim full damages.

**8.11** Shipping Technology has the right to use the name, trademark, brand, and logo of Client in publications in order to promote its products and services online or offline and to communicate that Client uses the products and services of Shipping Technology.

#### **Artikel 9 Security and Personal Data**

**9.1** Without prejudice to security standards that Parties agree to in other ways, Shipping Technology will adequately secure the ST BRAIN, the Services, the Software, and all re- lated data connections (insofar they are under its control) as well as any personal data that is processed by Shipping Technology, this in compliance with the Shipping Techno- logy Security Policy, the Shipping Technology Privacy Policy, and any service level agreements for the Software in question. Shipping Technology will take appropriate technical and organisational measures, which considering the state of the art and the related costs match the nature of the (personal) data to be processed, its scope, the context, and the purposes of the processing, as well as the likelihood and seriousness of various risks to the rights and freedoms of data subjects. Parties acknowledge that se- curity requirements change constantly and that effective security requires regular evaluation and improvement of security measures. Shipping Technology will therefore periodically test, assess and evaluate, add to, and/or improve the security procedures, the security policy, and any service level agreements for the Software in

question. This in order to continue to meet the requirements under this article.

**9.2** It is possible that during the collecting and analysing of Data, personal data from Client's employees will also be processed, such as navigating behaviour and location. In-sofar as this processing has the purpose to enable Shipping Technology to develop Software, Shipping Technology will be the controller in the meaning of the General Data Protection Regulation.

**9.3** Client is obligated to provide the Privacy Statement composed by Shipping Technology to all crew members who work on board of the vessel on which the ST BRAIN has been or will be installed and to document that this is done. At all times Shipping Technology will have the right to ensure compliance with this obligation. Client commits to fully cooperate with such a verification without any unreasonable delay.

**9.4** Client is also obligated to do what is necessary to enable Shipping Technology to meet its obligations as controller.

**9.5** At the first request of Shipping Technologies, Parties will further lay out their rights, duties, and responsibilities regarding the processing of personal data in a Data Processing Agreement.

#### **Artikel 10 Confidentially**

**10.1** If and insofar as a Party, during the execution of the Agreement, becomes aware of information from the other Party and this information has been marked as confidential verbally or in writing, or of which the receiving Party could be reasonably expected to understand that it should be deemed confidential (hereinafter, 'Confidential Information'), the receiving Party will keep this information strictly secret, only use it for the execution of the Agreement, and limit access to that information to persons who require access for that purpose. The receiving Party ensures that these persons are obligated to keep this Confidential Information secret through an employment agreement and/or a confidentiality agreement. Confidential Information in any event includes the Agreement and these Terms and Conditions and any information on the approach, methods, and techniques used by Shipping Technology and the contents of its advice.

**10.2** The goal of this Agreement in this context is expressly also understood to mean: the collecting, combining, analysing, and in other ways processing of Data for the purposes of providing Services to Client and to other clients of Shipping Technology and the development of new Software for the Client and other clients of Shipping Technology. Data that can be traced back directly to Client, Client's employees, or Client's properties, and specific data that has to be considered confidential for other reasons, will only be used by Shipping Technologies in ways that prevent this data from becoming known to third parties, except insofar as that is necessary for the providing of services to Client or for the development of new Software by third parties. In the latter two cases, Shipping Technology will impose secrecy on these third parties regarding the Data.

**10.3** Each of the Parties will take all reasonable precautions in order to meet its obligations of secrecy. None of the provisions included in this article limits the receiving Party in any way regarding information or data in case that information or data: (i) was already legitimately owned by the receiving Party before they were obtained from the involved party; (ii) has been independently developed by the receiving Party without using information or data from the involved Party; (iii) is generally known or are made publicly accessible, except when that is the result of the action or inaction of the receiving Party; or (iv) is made known to the receiving Party by a third party, without this violating any obligations of secrecy with regards to the involved Party.

**10.4** The obligations of secrecy resulting from this article do not apply insofar as Confidential Information has to be made public in accordance with the law, a court order, or a government decision, on the condition that the receiving Party will do everything in its power to limit the scope of that publication and give advance notification to the involved Party of such a planned publication—if it is not prohibited from doing so.

#### **Artikel 11 Fees, Invoicing, and Payment**

**11.1** The costs that Shipping Technology charges are the purchasing price of the ST BRAIN—including installation—the rate of the Subscription and/or the Services, plus any owed (administration) fees, VAT, and other applicable taxes or levies. The fees paid by Client under the Agreement cannot be reclaimed.

**11.2** The fees to be paid by Client for the delivery and installation of the ST BRAIN and for the delivery of the Services are agreed to in the initial Agreement. The fees to be paid by Client for licences are agreed to in separate Subscriptions. In case fees for certain Services are not mentioned in any Agreement, standard rates apply as indicated on Shipping Technology's website.

**11.3** One-time fees are invoiced in advance and need to be paid in full before delivery commences, unless otherwise agreed. Monthly fees are invoiced periodic and can be collected through direct debit.

**11.4** If Shipping Technology carries out work or has work carried out per the assignment or per the request of Client that fall outside the Agreement (including installation or repair work resulting from injudicious use of the ST BRAIN or the Software), this work will be paid for by Client in accordance with the agreed rates or the usual rates of Shipping Technology. Shipping Technology is not obligated to carry out such work, and it can request that a separate agreement will be entered into for that purpose.

**11.5** Products and services of third parties that are not part of the Agreement are offered by those third parties for the prices and payment conditions of those third parties. Shipping Technology has no influence on these prices and payment conditions, nor on any changes of those.

**11.6** Shipping Technology has the right to increase agreed prices and rates as it sees fit, including but not limited to correction for inflation. Client will be informed at least two months in advance of changes to prices and/or rates that go beyond a correction for inflation and has the right to terminate Agreements which are subject to such an increase of prices and/or rates per the date the increase will go into effect. In addition, Shipping Technology has the right to dissolve the agreement or possibly retroactively charge higher prices in the case of unexpected price increases from suppliers of Shipping Technology, changes in exchange rates, import taxes, revenue taxes, or statutory wage increases.

**11.7** Client is responsible for the deducting, reporting, and paying of any taxes or other government-imposed levies that apply to the fees invoiced by Shipping Technology, in accordance with applicable tax regulations and the practices and request of the Tax Authority, and for any fines and interest as a result of late payments or the not deducting and/or reporting of taxes that apply to those fees.

**11.8** If Client cannot meet its payment obligations or do so on time, it will be in default without a notice of default being required. The client will then owe interest of 1.5% per month or part of a month starting on the date the payment was owed. As well as all legal and extra-legal (collection) costs. The extra-legal (collection) costs are set at at least 15% of the main sum of the claim. Shipping Technology will then also have the right to suspend compliance with its obligations or to dissolve the Agreement without notice of default or court intervention, without prejudice to the right of Shipping Technology to also claim reimbursement for incurred damages. Non-payment on the expiration date will in any case mean the lapsing of any discounts and guarantees agreed to with Client. In the case of non-payment all amounts owed to Shipping Technology by Client as a result of other invoices or others will become legally due immediately.

**11.9** Claims by Shipping Technology will furthermore become due immediately if Client changes its legal form, requests suspension of payment, is declared to be in a state of bankruptcy, is liquidised or dissolved, as well as when third parties seize business, goods, claims, and/or other assets of Client.

**11.10** If Client disputes the amount of the sum to be paid as indicated on the invoice, the Client is to notify Shipping Technology of this in writing within fourteen days after receiving the invoice. If they fail to do so, Client's right to dispute the invoice will expire. The disputing of any of the amounts mentioned on the invoice does not suspend the payment obligation regarding other amounts and/or invoices.

**11.11** Client is not entitled to settlement or suspension.

#### **Artikel 12 Duration and Termination of the Agreement**

**12.1** Agreements go into effect on the start date that is mentioned in them and are for an indefinite period, unless the Agreement in question mentions a definite period. Agreements for a definite period cannot be terminated before their end date. When they end, Agreements for a definite period will be automatically converted into an Agreement for an indefinite period and will then be terminable in accordance with the provisions in article 12.2.

**12.2** Agreements for indefinite periods can be terminated by each of the parties in writing (including per email) at all times at the end of a calendar month and with a notice period of one calendar month.

**12.3** Shipping Technology has the right to terminate the Agreement immediately and without notice of default when the Client is granted suspension of payment, if bankruptcy is requested regarding Client, or if Client's business is liquidated or terminated for other reasons than reconstruction of the merging of businesses.

**12.4** Either of the parties is only allowed to dissolve the Agreement over an attributable shortcoming if the other Party, after an as detailed as possible written notice of default that includes a reasonable period for the resolving of the shortcoming, attributably falls short in complying with substantial obligations from the Agreement. Payment obligations of Client and all obligations to cooperation and/or the providing of information by Client or a third party to be engaged by Client will in any case count as substantial obligations.

**12.5** If, at the time of the termination, Client has already received performance as part of the execution of the Agreement, this performance and the related payment obligations will not be subject to cancellation, unless Client can prove that Shipping Technology is in default regarding that performance. Amounts that Shipping Technology has invoiced before the dissolution related to what it has already properly done or delivered for the execution of the agreement will continue to be owed in full, with consideration for the provision described in the previous sentence, and will become immediately due at the moment of dissolution.

**12.6** When an Agreement is terminated, the right to use the Services and Software that were supplied under that Agreement by Shipping Technology will end immediately and legally. Client will immediately cease the use of the Services and Software in question and continue to do so, and Client will no longer have access to the Data in question via the Online Environment.

### Artikel 13 Liability

**13.1** The total liability of Shipping Technology toward Client as a result of any shortcoming in the compliance with the Agreement, including any indemnification and guarantee obligation, based on the law or resulting from any other reason is limited to the reimbursement of damages to the maximum amount that will actually be paid by Shipping Technology insurer for the claim in question. Related events are considered as a single event.

**13.2** The limitation of the liability as meant in Article 13.1 does not apply in case and insofar as the insurer does not pay damages for the damage claim in question based on legitimate grounds that can be attributed to Shipping Technology and grounds not covered in the policy terms and conditions (such as not paying insurance premiums), in which case the total liability of Shipping Technology will be limited to no more than the invoice value of the Agreement related to the damage, with a maximum of € 50,000 (fifty thousand euros).

**13.3** Shipping Technology is never liable for indirect damages. Indirect damages are understood to include consequential damages, lost profits, lost savings, reduced goodwill, damage as a result of business stagnation, damage as a result of claims by clients, damage related to the use of third-party items, materials, or programmes specified by client, and damage related to the engagement of suppliers specified by Client. Also excluded is the liability due to the corruption, destruction, or loss of data or documents.

**13.4** Liability of Shipping Technology resulting from an attributable shortcoming in the meeting of an obligation only arises in the event that Shipping Technology has been notified of default properly and without delay by Client, having been given a reasonable term to resolve the shortcoming of at least thirty days, and if Shipping Technology continues to attributably fall short of meeting its obligation after that period.

**13.5** The exclusions and limitations of liability in this article are without prejudice to the other exclusions and limitations of liability in the Agreement, these Terms and conditions, and any Service Level Agreement entered into for the Software in question.

**13.6** The exclusions and limitations mentioned in this article will expire in case and insofar as the damage is the result of deliberate intent or wilful negligence on the part of Shipping Technology.

**13.7** Condition for the arising of any right to compensation for damages is that Client reports the damage to Shipping Technology in writing as soon as possible after the damage occurs. Any claim for compensation for damages against Shipping Technology expires by the passing of twenty-four months after the claim arose.

**13.8** The liability limitations in this article also apply to third parties engaged by Shipping Technology.

### Artikel 14 Force Majeure

**14.1** In the case of force majeure, Shipping Technology has the right to suspend the execution of the agreement without court intervention or to dissolve the Agreement entirely or in part, without Shipping Technology owing any reimbursement for damages resulting from that.

**14.2** Force majeure is understood to mean—in addition to that which is understood in the law and jurisprudence—all external causes, foreseen or unforeseen, on which Shipping Technology has no influence, and as a result of which Shipping Technology is unable to meet its obligation. Force majeure in any case includes war, threat of war, civil war, civil unrest, flooding, water damage, vandalism, fire, transport difficulties, unforeseen technical complications, company disruptions and labour strikes at Shipping Technology or its suppliers, breach of contract by suppliers of Shipping Technology, or the unavailability of key assets—including personnel—at Shipping Technology or its suppliers.

**14.3** If Shipping Technology has already partially met its obligations resulting from an Agreement in the event of force majeure, Shipping Technology has the right to invoice the already delivered performance, and the other party will be obligated to pay this invoice as if it were a separate transaction.

### Artikel 15 Other Provisions

**15.1** All Agreements between Shipping Technology and Client to which these Terms and Conditions apply are exclusively subject to Dutch law.

**15.2** All disputes stemming from the Agreement entered into with Client will be exclusively submitted to the competent judge in Amsterdam.

**15.3** If any provision in these Terms and Conditions or in the Agreement turns out to be null and void or is annulled, this will not influence the validity and applicability of the other provisions. The null and void or annulled provision will be replaced by a provision that is not null and void or unannullable and that in terms of contents and consequences will approach the null and void or annulled provision as closely as possible.

**15.4** Waiving of rights is only possible using an express and written statement.

**15.5** Shipping Technology is authorised to transfer (the rights and obligations resulting from) the Agreement in whole or in part (i) to businesses connected to Shipping Technology in a group, (ii) to third parties together with the company of Shipping Technology, and (iii) in the event of a merger.

**15.6** Client is not allowed to transfer (rights and obligations resulting from) the Agreement to third parties without prior written permission from Shipping Technology. Electronic communication sent by Shipping Technology is considered to be received on the day it was sent, unless the contrary can be proven by Client.

**15.7** The applicability of the Vienna Convention (CISG) is explicitly rejected.

### SPECIFIC PROVISIONS REGARDING THE ST BRAIN

#### Artikel 16 Guarantees

**16.1** Shipping Technology will ensure that the ST BRAIN will be installed and activated by an expert mechanic.

**16.2** Client is not allowed to install the ST BRAIN software without express and written permission from Shipping Technology.

**16.3** Shipping Technology will, to the best of its ability, try to repair material and manufacturing faults in the ST BRAIN and/or other delivered items within a reasonable period and at no cost, provided that these faults have been reported to Shipping Technology with a detailed description within a period of twelve months after delivery. The aforementioned guarantee and guarantee period also applies to all malfunctions to the ST BRAIN that are not caused by material or manufacturing faults. A 'malfunction' is understood to mean the ST BRAIN not meeting or not meeting without interruption the specifications that have been expressly communicated by Shipping Technology. A malfunction only exists if the Client can show this malfunction and if the malfunction in question can also be reproduced.

**16.4** In the event the repairing of faults or malfunctions is not possible in the reasonable assessment of Shipping Technology, if repairs will take too long, or if the repair involves disproportionately high costs, Shipping Technology has the right to replace the ST BRAIN and/or other delivered items at no cost by other, similar, but not necessarily identical equipment and/or items. Any data conversion that will be necessary as the result of repair or replacement is not covered by the guarantee. All replaced parts will become the property of Shipping Technology.

**16.5** Client will provide all cooperation required by Shipping Technology for the repair, such as the timely ceasing of the use of the ST BRAIN. Client is obligated to provide access for Shipping Technology personnel or third parties appointed by Shipping Technology to the location of the ST BRAIN, provide any other necessary cooperation, and possibly make the ST BRAIN available to Shipping Technology for repairs. Shipping Technology will then not be obligated to make replacement equipment available. Client will bear the risk for loss, theft, or damage of the ST BRAIN for the period Shipping Technology might have access to it for repair work. It is up to client to insure this risk.

**16.6** If Shipping Technology deems it necessary for the repair of the ST BRAIN to test the connections of the ST BRAIN to other equipment, Client will make the other equipment in question available to Shipping Technology.

**16.7** The guarantee and repair obligations of Shipping Technology do not include work that relates to, and Shipping Technology is not liable for:

**16.7.1** Faults or malfunctions that are the result of user errors, injudicious use of the ST BRAIN, or external causes outside the sphere of influence of Shipping Technology, such as problems with the Internet, data network connections, power supplies, power cuts, fire or water damage, or links to equipment, software, or materials that have not been approved by Shipping Technology;

**16.7.2** The investigation and repair of malfunctions that are the result of or are related to changes to the ST BRAIN other than by or on behalf of Shipping Technology;

**16.7.3** The use of ST BRAIN in violation of the terms and conditions for that and failure of the Client to maintain the ST BRAIN or have it maintained (in a timely manner);

**16.7.4** Damage as a result of not complying with the usage guidelines or instructions;

**16.7.5** Damage as a result of not (sufficiently) keeping open the ventilation openings of the ST BRAIN;

**16.7.6** Damage resulting from deliberate action or gross negligence;

**16.7.7** Damage as a result of the opening of the ST BRAIN without permission from Shipping Technology or by a technician that was not engaged by Shipping Technology;

**16.7.8** Damage that is reasonably unavoidable as a result of placing and installing the ST BRAIN;

**16.7.9** Costs for (the replacement of) consumables, such as batteries, cables, and accessories;

**16.7.10** Costs for (the replacement of) parts as well as the repair of malfunctions that have been partially or entirely caused by attempts to repair by others than Shipping Technology;

**16.7.11** Modifications to the ST BRAIN;

**16.7.12** Modifications to the ST BRAIN;

**16.8** Any guarantee on the ST BRAIN is only valid if the Client has at least taken out a Subscription for the Software that makes it possible to give the Client access to Data using the Online Environment.

**16.9** If Shipping Technology carries out work related to the provisions in Article 16.7, Shipping Technology may charge this in accordance with its usual rates.

**16.10** Shipping Technology is never obligated to repair data corruption or loss that resulted from faults, malfunctions, repair, and/or maintenance.

**16.11** According to the Agreement, Shipping Technology has no obligation with regard to faults and/or other defects that have been reported after the guarantee period referred to in this article has expired.

**16.12** No other guarantees than the ones mentioned in these Terms and Conditions apply, unless otherwise mandated by law.

**16.13** Guarantees are non-transferrable.

**16.14** Garanties zijn niet overdraagbaar.

#### **Artikel 17 Maintenance and Upgrades of the ST BRAIN**

**17.1** Shipping Technology will only carry out (preventive) maintenance related to the ST BRAIN if the Parties have entered into a separate Agreement on that. Shipping Technology is allowed to engage third parties for this.

**17.2** Shipping Technology is allowed to make improvements or changes to the ST BRAIN at no cost, such as replacement, upgrades, or additions of certain parts or components, including when such improvements or changes do not directly benefit the Client. Client is obligated to have these improvements or changes implemented by Shipping Technology, insofar as that does not mean a significant change of functionality to the detriment of Client, and to offer all reasonable cooperation in accordance with the provisions in 16.5.

#### **SPECIFIC PROVISIONS REGARDING THE SOFTWARE**

##### **Artikel 18 Guarantees**

**18.1** Shipping Technology does not guarantee that Software made available on SaaS basis is free of errors and will function without interruption.

**18.2** The Software will always meet the functional specifications communicated in writing (including on the website) by Shipping Technology to a significant degree. Only if the Software significantly deviates from the communicated specifications will Shipping Technology—Shipping Technology's decision—repair or replace the Software or terminate the Subscription without the refunding of any sums paid in advance.

**18.3** Shipping Technology will attempt to repair faults in the Software within a reasonable time period and in accordance with the service level agreement possibly entered into with regard to the specific Software and insofar as it concerns Software that has been developed by Shipping Technology itself and the defects in question have been communicated to Shipping Technology by Client with a detailed, written description. When appropriate, Shipping Technology can postpone the repair of the defects until a new version of the Software is implemented. Shipping Technology does not guarantee that defects in Software that has not been developed by Shipping Technology itself will be resolved.

**18.4** Shipping Technology has the right to apply temporary solutions or software workarounds or problem-avoiding limitations to the Software. If the Software has been developed for Client, Shipping Technology can charge to Client the rates it considers usual for the repair.

**18.5** Shipping Technology does not guarantee that Software will be changed in time for changes to relevant laws and regulations.

**18.6** Shipping Technology is never obligated to repair corrupted or lost data.

##### **Artikel 19 Licenses, Duration, and Usage Limitations**

**19.1** For the use of the Software, Client needs to take out Subscriptions, and the ST BRAIN and the Software will only function if there is a Subscription. Shipping Technology will provide Client with non-exclusive, non-transferrable, non-pawnable, non-sublicensable, and limited Licences to use the Software in accordance with the provisions of the Agreement and these Terms and Conditions. Licences are only valid for the purpose for which they are provided to Client. The Licences are provided on the condition that all fees owed based on the Agreement are paid in full. The Licences also apply to any updates made available by Shipping Technology.

**19.2** The Licence on the Software for making the Data available starts at the moment the ST BRAIN is installed. The licence for other software and functionalities applies from the moment the Subscription starts. Licences end immediately and legally at the moment (i) the Subscription in question is terminated or (ii) if this comes earlier, at the moment the Client sells, delivers, or makes available the ST BRAIN to any third party, unless the licence is transferred to this third party with written permission from Shipping Technology.

**19.3** Shipping Technology may terminate a Subscription or separate Service if it is no longer being offered by Shipping Technology. A notice period of thirty days applies.

**19.4** Access to the Software is provided remotely (SaaS) by Shipping Technology or by installation on the ST BRAIN, unless Parties agree otherwise. Client is not allowed to download the Software that is made available remotely via the Internet or another data network, or to install it on other equipment, except insofar as Shipping Technology allows that (via the Software's functionalities).

**19.5** The making available of the Software by Shipping Technology and the licences that have been granted do not cover the source code of the programming that forms the foundation of the Software.

Agreements are not considered purchase agreements by the Parties. The ownership of the Software remains with Shipping Technology.

**19.6** Client is obligated to only provide the login details provided to it to employees that have been authorised by it and to obligate them to keep the login details secret and not provide them to third parties. Client is responsible and liable for all the authorised and unauthorised use of the Software that occurs via the login details of Client and indemnifies Shipping Technology from damages resulting from that.

**19.7** Client may only use the Software at and for its own business or organisation, and only insofar that is necessary for the intended purpose. Client will not use the Software for third parties, for instance in the context of 'Software as a Service' (SaaS) or outsourcing. Client will not (re)sell, rent, vend, or offer limited rights to or in any way, for any purpose or under any title make available to third parties the Software and the Services. No use by or on behalf of the Client may lead to the fact or possibility of (commercial) exploitation of the Software by Client.

**19.8** Client is not allowed to use the Software in violation of legal provisions, the Agreement, and/or the Terms and Conditions, nor carry out actions of which it can be assumed that these can damage or violate the rights of Shipping Technology or third parties.

**19.9** Shipping Technology always has the right to take technical measures to protect the Software against unlawful use and/or against use in other ways than for the purposes agreed to between Parties. Client will never remove or evade technical measures that are intended to protect the software or have them removed or have them evaded.

**19.10** If asked, Client will without delay offer its cooperation with an investigation regarding the compliance of the agreed usage limitations to be carried out by or on behalf of Shipping Technology. At Shipping Technology's first request, Client will provide access to its locations and systems. Shipping Technology will treat all confidential business information that it receives from or at Client in the context of the investigation—insofar as that information does not concern the use of the Software itself—as confidential.

##### **Artikel 20 Changes and Updates**

**20.1** Licences do not automatically grant rights to upgrades or updates of the Software, unless the Parties have agreed otherwise. Shipping Technology has the right to apply upgrades, updates, supplements, and/or new features to the Software as it sees fit. It cannot be obligated to do so. Shipping Technology will—if possible—inform Client of that in a timely manner, insofar as these changes in Shipping Technology's opinion can have significant consequences for the use of the software.

**20.2** Client accepts that Shipping Technology can install upgrades, updates, supplements, and/or new features without specific permission of Client. Insofar as necessary, Client will offer its cooperation with the installing of upgrades, updates, supplements, and/or new features. If this is lacking, Shipping Technology has the right to deny access to the Software. Shipping Technology has the right to charge additional fees for upgrades, updates, supplements, and/or new features if they add extra functionalities.

**20.3** Shipping Technology is not obligated to maintain, change, or add certain features or functionalities of the Software.

**20.4** Client is obligated to always use the latest version of the Software.

##### **Artikel 21 Service Levels, Maintenance, and Backups**

**21.1** Shipping Technology guarantees service levels, availability, and maintenance services of the Software only in accordance with any service level agreement agreed to for the Software. If there is no service level agreement, Shipping Technology does not offer guarantees regarding service levels, availability, or maintenance services. Shipping Technology has the right to change the service level agreement unilaterally if Shipping Technology believes that pressing interests of Shipping Technology, Client, or third parties require it.

**21.2** Shipping Technology can partially or completely disable the Software remotely for a limited time for preventative, corrective, or adaptive maintenance or other forms of service. Shipping Technology will not make the out-of-service period last longer than necessary and—if possible—schedule it outside of office hours. Shipping Technology is never obligated to provide Client with a physical data carrier containing the Software to be made and kept available to Client.

**21.3** Insofar as Client has maintenance or support services carried out by a third party, these services happen completely at the expense and risk of the Client insofar as they relate to the relationship between Shipping Technology and Client. Shipping Technology is not liable for those services and the consequences thereof, regardless of whether the third-party service provider in question was recommended by Shipping Technology or cooperates with Shipping Technology in any way.

**21.4** Once a week, Shipping Technology will make a full backup of the information it possesses of Client and of the Data. Shipping Technology will carefully store the backup for twelve months. Shipping Technology may charge a reasonable fee for access to the backup for Client or for providing a copy of the backup to Client (insofar as Client is entitled to that).

**21.5** Client will remain responsible for complying with all legally required administration and storage obligations applying to it.

## **Artikel 22 Software and Products from Third Parties**

**22.1** When using the ST BRAIN, Client (also) uses software and/or services of third parties (manufacturers, suppliers, and/or licence providers). Additional terms and conditions may apply to these, which in that case will be provided to Client by Shipping Technology or the third party. If Client wishes to use the products or services of the third party, client is required to agree to the terms and conditions and strictly comply with them. Shipping Technology has no influence on the contents of third-party terms and conditions. If Client objects to the contents of third-party terms and conditions, Client is required to inform Shipping Technology about that immediately after receiving them.

**22.2** Shipping Technology does not offer guarantees and is not liable for the use of third-party products or services via or in combination with the ST BRAIN or the Services. The use of third-party products and services is at the expense and risk of Client. Shipping Technology is not liable for damage caused by the use of third-party products or services in combination with the ST BRAIN.

**22.3** Shipping Technology does not guarantee that third-party products or services will work without malfunction in combination with the ST BRAIN.

**22.4** If Client desires support regarding third-party products or services, Client should directly contact the supplier of the product or service in question, unless Shipping Technology offers support for the specific product or specific service.

Last update: February 2023