

BMWT General Terms and Conditions for Training Courses

Association of Manufacturers and Suppliers of Construction Machinery, Warehouse Equipment, Road Building Machinery and Transportation Equipment B.M.W.T. (BMWT), with its registered office in The Hague.

Article 1 - Definitions; applicability

1.1 In these General Terms and Conditions for Training Courses (**Terms and Conditions**), the following terms shall have the following meanings:

Client:	the legal entity which enters into and/or has entered into a Training Agreement with the Supplier with respect to the provision of one or more Training Courses by the Supplier;
Participant:	any person or all persons employed by or working for the Client, in whatever capacity, including, but not limited to, employees, freelancers, solo self-employed workers, temporary staff, trainees and any subcontractors, who take part in a Training Course;
Supplier:	a company affiliated with BMWT that organises or delivers Training Courses;
Training Course(s):	all courses, training programmes or courses of instruction, whether in person or otherwise, organised and/or delivered by the Supplier;
Training Agreement:	all agreements between the Supplier and the Client relating to the provision and/or delivery by the Supplier of Training Courses and/or the attendance by the Client or a Participant at Training Courses, as well as all assignments, instructions, and (legal) acts relating to the attendance at or the provision and/or delivery of Training Courses;
Party/Parties:	the Client and the Supplier, collectively or individually.

1.2 These Terms and Conditions apply to all registrations, all quotations and all orders placed with the Supplier, and all Training Agreements, as well as to any supplementary or subsequent Training Agreements and (legal) acts.

1.3 Deviations from and additions to these Terms and Conditions shall only be valid if agreed in writing by authorised representatives of the Parties.

1.4 The applicability of the Client's purchasing terms and conditions or any other general or special terms and conditions is expressly rejected.

1.5 In the event of any conflict between the provisions of the Training Agreement and these Terms and Conditions, the provisions of the Training Agreement shall prevail.

1.6 In the event of any discrepancy or difference between the Dutch text of these Terms and Conditions and the text of these Terms and Conditions in another language, the content of the Dutch text shall prevail.

Article 2 - Registration

- 2.1** Registration for Training Courses shall take place in the manner specified by the Supplier from time to time, or as agreed by the Parties.
- 2.2** A Training Agreement shall only be concluded upon written confirmation or performance thereof by the Supplier. The Supplier is free to refuse the registration of a Client or Participant without giving reasons.
- 2.3** If the registration form has not been completed fully, correctly or truthfully, the Supplier is entitled to refuse the Participant(s) access to the Training Course. In such case, and insofar as the invoice for the Training Course has already been paid, there shall be no entitlement to a refund.
- 2.4** It is the responsibility of the Client and the Participant concerned to assess whether the chosen Training Course is suitable for the intended purpose.

Article 3 - Course times, venue and certificate

- 3.1** The Training Courses shall be provided at the times and venues specified in the Training Agreement, or at the times and venues subsequently communicated by the Supplier to the Client or Participant.
- 3.2** Upon successful completion of the Training Course, the Supplier shall provide the Client or Participant with a certificate as proof of participation in and (successful) completion of the Training Course.

Article 4 - Prices and payment

- 4.1** The prices charged by the Supplier for Training Courses are in euros and exclusive of VAT, unless otherwise specified by the Supplier.
- 4.2** Invoices must be paid in full by the Client before the start of the Training Course, unless otherwise agreed in writing. The Supplier is entitled to refuse a Participant access to the Training Course if payment has not been made on time, without prejudice to its other rights, such as, but not limited to, demanding payment.
- 4.3** In the event of non-payment or late payment of an invoice from the Supplier, the Client shall owe the Supplier: (i) statutory commercial interest and (ii) all judicial and extrajudicial collection costs amounting to at least 15 per cent of the outstanding invoice or invoices, without prejudice to the Supplier's other rights arising from such non-payment or late payment.
- 4.4** The Client is not entitled to suspend any payment obligation or to offset any amounts owed by it.
- 4.5** The Supplier reserves the right to change the price of a Training Course at any time. If the Supplier increases the price of a Training Course after a registration for a Training Course has taken place or a Training Agreement has been concluded, the Supplier shall notify the Client of this. The Client shall then be entitled to cancel the registration and the Supplier shall, where applicable, refund the price already paid, provided that the cancellation is made in writing within 5 working days of the price increase being announced.

Article 5 - Exclusion from participation in the Training Course

- 5.1** If a Participant's level of knowledge for a particular Training Course is insufficient, or if the Supplier suspects that the level of knowledge is insufficient, the Supplier shall be entitled, for safety or other reasons, to refuse a Participant access to the Training Course or to deny them further participation in the Training Course.
- 5.2** If a Participant behaves inappropriately, is under the influence of alcohol and/or drugs, or creates dangerous situations during the Training Course, the Supplier shall be entitled to deny the Participant in question further participation in the Training Course.
- 5.3** In the cases referred to in Articles 5.1 and 5.2, the invoice for the Training Course shall remain payable in full by the Client and, insofar as the invoice for the Training Course has already been paid, there shall be no entitlement to a refund.

Article 6 - Cancellation, substitution and changes

- 6.1** The Client or Participant may only cancel a registration in writing. If the Supplier receives a cancellation up to 10 calendar days before the date of the Training Course, this cancellation shall be free of charge to the Client and, insofar as payment of the invoice has already been made, the Supplier shall refund the payment for the Training Course.
- 6.2** If the Supplier receives a cancellation between 6 and 10 days before the date of the Training Course, the Supplier shall be entitled to charge the Client 50% of the participation fee.
- 6.3** If the Supplier receives a cancellation 5 days or less before the date of the Training Course, the Supplier shall be entitled to charge the full price for the Training Course.
- 6.4** The provisions set out in Articles 6.1–6.3 apply regardless of the reason for the cancellation.
- 6.5** The Supplier reserves the right to cancel a Training Course or combine it with another Training Course if there is insufficient interest in the Training Course. If the invoice for a cancelled Training Course has already been paid, the Participant shall be entitled to attend the next available similar Training Course.
- 6.6** In the event that a Participant is unable to attend, a substitute designated by the Client may attend the Training Course, provided that the Supplier is informed of this in writing and the substitute's details are communicated to the Supplier in writing no later than 24 hours prior to the Training Course. These Terms and Conditions shall also apply in the event of the substitute's participation in the Training as referred to in this Article 6.6.
- 6.7** The Supplier reserves the right, without giving reasons, to make changes to the content, organisation, dates, venue and other specifications of Training Courses, as well as to cancel Training Courses. The Supplier shall not be liable for any costs or damage incurred by the Client or a Participant arising from this. If a new date has been set for a Training Course and a Participant is unable to attend on that date, and the invoice for the Training Course has already been paid, the Participant in question shall be entitled to attend the next available Training Course of the same type.

Article 7 - Intellectual property rights

- 7.1** The intellectual property rights to course materials provided by the Supplier, such as, but not limited to, manuals, brochures and handouts, are vested in the Supplier, its

licensor(s) or third-party rights holders. Such study materials are intended solely for use by the Client and/or the Participant and may not, without the Supplier's prior written consent, be reproduced, made public or provided to third parties by the Client or the Participant.

- 7.2** If the Client or Participant acts in breach of the provisions of Article 7.1 above, the Client shall owe the Supplier a one-off and immediately payable (i.e. without notice of default being required) penalty of €5,000. The Supplier shall also be entitled to claim compensation from the Client or Participant for any loss suffered by the Supplier.

Article 8 - Limitation of liability

- 8.1** The Supplier's total liability for damages, on whatever grounds, including but not limited to damage resulting from a failure to comply with the Training Agreement and these Terms and Conditions, including a failure to comply with any applicable warranty or indemnity provision, or a tortious act on the part of the Supplier (including its staff and management) or third parties engaged by the Supplier, shall be limited to compensation for damages as set out in this Article 8.
- 8.2** Direct loss, including loss resulting from damage to or the total or partial loss of property, and loss resulting from death or personal injury, shall be limited to compensation for the amount that the Supplier receives in the relevant case under any insurance policy taken out by it. If, for any reason whatsoever, the Supplier is not entitled to a payout under any insurance policy, the Supplier's liability as referred to in this paragraph shall be limited to twice the invoice amount (excluding VAT) that the Client has paid to the Supplier for the performance of the Training Agreement underlying the relevant loss event.
- 8.3** The Supplier's liability for indirect and consequential loss, which shall be understood to include, amongst other things, loss of profit and loss of turnover, lost savings, reduced goodwill, reputational damage, losses due to late delivery and business interruption, and damages arising from claims by Clients of the Client or other third parties, is expressly excluded.
- 8.4** If, for any reason whatsoever, the provisions of Article 8.3 do not apply or cannot be invoked, the Supplier's liability for indirect and consequential loss as referred to in Article 8.3 shall be limited to the (maximum) compensation in accordance with the provisions of Article 8.2 of these Terms and Conditions.
- 8.5** The limitations of liability set out in Articles 8.2 up to and including 8.4 above shall not apply if and insofar as the damage results from wilful misconduct or gross negligence on the part of (solely) the Supplier's management.
- 8.6** The Client shall indemnify the Supplier against any fines and/or other penalties, as well as against claims by third parties, including claims by Participants, on whatever grounds, in connection with the Training Course(s) organised or provided by the Supplier for or to the Client or a Participant. This indemnity obligation shall lapse if the Client proves that there is no connection between the facts underlying the fine, penalty and/or third-party claim and any act on the part of the Client, nor are they otherwise at the Client's risk.
- 8.7** A claim for compensation for damage shall lapse if the Client has not lawfully brought legal proceedings against the Supplier within twelve (12) months of the Client becoming aware of the damage.

- 8.8** If the Client makes a claim against the Supplier for compensation for damage based on a claim taken over or acquired from a third party, including a Participant, in the causation of which the Supplier is directly or indirectly involved in any way, the Supplier may also invoke the above provisions against the Client.
- 8.9** Any claim for damages vis-à-vis the staff or the management of the Supplier, or the Supplier's group companies, suppliers and other third parties engaged by the Supplier, in connection with or arising from the Training Agreement or these Terms and Conditions, is expressly excluded. The aforementioned natural and legal persons may, in this context, rely on this third-party clause, which has been irrevocably stipulated for their benefit.
- 8.10** The Client shall adequately insure its business and business operations and shall ensure that such insurance remains in force, and shall provide the relevant policies and documents at the Supplier's first request.

Article 9 - Data protection

- 9.1** Where, in the context of the Training Agreement, the Client processes personal data as defined in Article 4 of the General Data Protection Regulations, this shall be done in accordance with the applicable laws and regulations.
- 9.2** The Client guarantees that the personal data of Participants supplied is accurate, that it has adequately informed the Participants about the processing of personal data, and that it has a legal basis for the processing of personal data (including any disclosure thereof to the Supplier).
- 9.3** The Client shall ensure that the manner in which the personal data of Participants is provided to the Supplier complies with the requirements of Article 32 of the General Data Protection Regulation (Security of Processing).
- 9.4** The Client shall, upon request, assist the Supplier if a Participant submits a request to the Supplier to exercise their data protection rights under Chapter 3 of the General Data Protection Regulation.

Article 10 - Final provisions

- 10.1** Without the Supplier's prior written consent, the Client is not permitted to transfer rights and obligations under the Training Agreement and these Terms and Conditions to third parties or to instruct third parties to perform or arrange for the performance of rights or obligations under the Training Agreement and these Terms and Conditions.
- 10.2** The Supplier is entitled to transfer rights and obligations under the Training Agreement and these Terms and Conditions to third parties or to instruct third parties to perform or arrange for the performance of rights or obligations under the Training Agreement and these Terms and Conditions, without the Client's prior written consent insofar as the Client's consent to the transfer of rights and obligations or to the engagement of third parties is required by law, such consent is hereby deemed to have been given.
- 10.3** If any provision of the Training Agreement and/or these Terms and Conditions is void or is set aside, the remaining provisions of the Training Agreement and/or these Terms and Conditions shall remain in full force and effect. In the situation referred to in the preceding sentence, as well as in the situation where any provision in the Training Agreement and/or these Terms and Conditions is, under the given circumstances, unacceptable according to standards of reasonableness and fairness, a provision shall

apply between the Parties which, having regard to all circumstances, is valid and acceptable and comes closest to the intent of the invalid or unacceptable provision.

Article 11 - Applicable law and competent court

- 11.1** The legal relationships between the Parties, including the Training Agreement and these Terms and Conditions, including the jurisdiction clause, shall be governed exclusively by Dutch law.
- 11.2** All disputes between the Parties arising out of or in connection with the legal relationships between them, including the Training Agreement and these Terms and Conditions, including disputes concerning their existence and validity, shall be settled exclusively by the competent court in Amsterdam, the Netherlands.