

General Terms and Conditions

Version May 20, 2018

Article 1. Definitions

1. Contractor: EUROPOLARIS, registered with the Chamber of Commerce under number 68702310.
2. Client: the natural or legal person by whose assignment services are provided and/or activities are carried out.
3. Agreement: the agreement between Contractor and Client in the matter of the provision of services and/or the performance of activities.

Article 2. General

1. The Agreement shall come into effect by the General Terms and Conditions in question together with the confirmation of assignment signed by Contractor and Client.
2. These General Terms and Conditions shall be applicable to any and all offers, quotations and the Agreement between Contractor and Client, insofar as the parties do not explicitly deviate from these General Terms and Conditions.
3. The applicability of any purchasing terms and conditions and/or any other terms and conditions of Client is expressly denied.
4. Should one or more conditions of these General Terms and Conditions be entirely or partially annulled or declared void by the court at any time, this shall not affect the validity of any other conditions.

Article 3. Quotations and offers

1. All quotations and offers by Contractor shall be without obligation, unless the offer or quotation states an acceptance term. If no acceptance term is stated, no right can be derived from the quotation or offer in any manner whatsoever.
2. Quotations by Contractor shall be based on the information supplied by Client. Client warrants that he/she has timely and truthfully supplied Contractor all information that is essential for the planning, execution and completion of the assignment.
3. Contractor cannot be held to a quotation or offer if Client may reasonably understand that (a part of) the quotation and offer contains an obvious mistake or error in writing.
4. A composite quotation and offer shall not obligate Contractor to carry out a part of the quotation and offer against a corresponding part of the stated price.
5. Offers and quotations shall not automatically apply to future orders.

Article 4. Prices

1. All prices shall be in euro exclusive of VAT and other government levies as well as any other costs that may be incurred within the framework of the Agreement such as travel and other expenses and costs including but not limited to invoices by engaged third parties. Aforementioned costs shall be to the account of Client.
2. If Contractor agrees a fixed price with Client, Contractor shall be entitled to increase that price without Client having the right to terminate the Agreement for that reason, if the price increase is the result of a right or obligation by virtue of law or regulations or is caused by an increase of cost price determining factors such as the price of raw materials, wages, etc. or on other grounds that could not reasonably be foreseen at the time that the Agreement was entered into.
3. If a price increase other than as a result of an amendment of the Agreement, amounts to more than 10% (ten percent), Client shall have the right to cancel the Agreement provided this is done in writing within 14 (fourteen) days of receipt of the altered price, unless Contractor is prepared to execute the Agreement on the basis of what was originally agreed, the price increase is the result of a right or obligation of Contractor by virtue of law and/or if it was stipulated that the delivery will take place more than 3 (three) months after the Agreement.
4. A cancellation as referred to in the previous paragraph of this article shall not entitle Client to compensation for any damages. In the event that Client cancels the Agreement, Contractor shall have the right to charge Client for costs already incurred by Contractor.

Article 5. Agreement

1. The Agreement shall come into effect as per the day of signing by Client, the day of sending the written confirmation of assignment by Contractor to Client respectively.
2. The Agreement shall be entered for an indefinite period, unless the content, nature or purpose of the Agreement determines that it has been entered into for a fixed period.

Article 6. Execution of the Agreement

1. Contractor shall observe the care of a good Contractor in the execution of his/her activities.

2. By force of the Agreement, Contractor undertakes a best efforts obligation and therefore does not provide any guarantees concerning the results of the assignment, unless explicitly determined otherwise.
3. Contractor shall have the right, insofar as this is required for a proper execution of the Agreement, to have the Agreement partly carried out by third parties. Contractor shall only proceed thereto after consultations with Client.
4. The applicability of the articles 7:404, 7:407 paragraph 2 and 7:409 Dutch Civil Code is hereby expressly excluded.
5. If within the duration of the assignment, a term has been agreed for the completion of certain activities, this term shall never be final to Contractor. When the performance time is exceeded, Client shall declare Contractor to be in default in writing.

Article 7. Alteration of the assignment

1. Changes in the Agreement by Client that could not have been foreseen by Contractor and that entail additional work, shall be charged by Contractor to Client pursuant the rate agreed in the Agreement. Additional work shall furthermore be the rescheduling of planned activities by Contractor if this is required as a result of supplying incorrect or incomplete data by Client. Contractor shall have the right to invoice the costs for additional work to Client on the basis of actual costs.
2. Client shall timely inform Contractor in writing of any changes in the execution of the Agreement requested at a later time by Client after granting the assignment. Any amendment of and/or addition to the Agreement shall only be valid if accepted by both Contractor and Client (preferably in writing).
3. Changes made in an assignment that has already come into effect, may result in the fact that the originally agreed delivery time shall be exceeded by Contractor.

Article 8. Cooperation Client

1. Client shall at all times, thereto requested and at his/her own initiative, supply all relevant information to Contractor that is required for a correct performance of the assignment granted to him/her.
2. If information required for the performance of the agreed assignment, is not made available or not timely or not in agreement with the arrangements entered into by Client, or if Client has not met his/her (information) obligations in any other manner, Contractor shall have the right to suspend the execution of the Agreement.
3. In order to let the performance of the assignment proceed orderly and as far as possible according to the time schedule, Client shall timely make staff from his/her own organisation available, unless the nature of the assignment determines otherwise. Client shall ensure that his/her staff has the proper skills and experience to carry out the activities.
4. If and insofar as Contractor requests thereto, Client shall supply Contractor at his/her premises and free of charge a private workspace with telephone and, if so desired, a fax and/or data net connection, unless the nature of the assignment determines otherwise.
5. If there are ensuing costs to Contractor as a result of the fact that Client has not, not timely or not properly made staff, requested data, documents and facilities available, such costs shall be to the account of Client.

Article 9. Termination

1. Both parties may prematurely terminate the Agreement at all times in writing with due observance of a term of notice of 30 (thirty) days unless the parties have agreed otherwise.
2. If Client prematurely terminates the Agreement, Contractor shall be entitled to compensation in view of the resulting occupancy loss which has to be made plausible, whereby the average monthly invoice amount to date is taken as starting point, unless the termination is based on facts and circumstances that may be attributed to Contractor. The preliminary results of the activities carried out up to that time, shall conditionally be made available to Client.
3. In the event that one of the parties becomes bankrupt, requests suspension of payment or ceases its activities, the other party shall have the right to prematurely terminate the Agreement without any requirement to observe a term of notice.
4. In the event of premature termination by Contractor, Client shall be entitled to the cooperation of Contractor concerning the transfer of activities to be carried out, to any third parties. When the transfer of the activities incurs additional costs to Contractor, Client shall be charged for any such costs.

Article 10. Power to terminate and/or to suspend

1. Contractor shall be authorized to suspend the fulfilment of his/her obligations or to terminate the Agreement, if:
 - a. Client does not, not completely or not timely fulfil the obligations from the Agreement and/or if Contractor has good grounds to fear that Client will fail in the fulfilment of such obligations;
 - b. Client, on entering into the Agreement, was requested to put up security for the fulfilment of his/her obligations from the Agreement and security is not forthcoming or insufficient;

- c. in the event that Client is liquidated (or a request thereto has been filed), suspension of payment is granted to Client, Client is declared bankrupt, the Debt Repayment Natural Persons Act ("WSNP) has been declared applicable to Client or Client is placed under guardianship, Client loses the partial or full disposal of his/her capital or revenues, Client sells his/her business and/or if attachment is imposed against Client and this attachment is not lifted within 3 (three) months.
2. Contractor shall furthermore be authorized to terminate the Agreement if such circumstances occur that execution of the Agreement is impossible or if circumstances occur which are such that according to criteria of reasonableness unaltered maintenance the Agreement cannot be required of Contractor.
3. If Contractor proceeds to suspension or termination, Contractor shall in no manner whatsoever be held to compensation for any ensuing damages and or costs.
4. In the event that Contractor proceeds to terminate the Agreement, the receivables of Contractor from Client shall become immediately payable.
5. In the event that termination is attributable to Client or that Contractor has to suspend execution of the Agreement as referred to in this Article 8.2 of these General Terms and Conditions, Client shall be obligated to reimburse Contractor for any direct and indirect damages and costs.
6. Contractor may at all times require further security, in the absence whereof Contractor may suspend the execution of the Agreement. If this requirement is not met to the satisfaction of Contractor, Contractor shall have the right to suspend the execution of, or to refuse all Agreements with Client, without being held to any compensation for damages and without prejudice to any other of his/her rights under this Agreement or by law.

Article 11. Terms of payment

1. Payment shall be effected within fourteen days from invoice date in a manner to be indicated by Contractor in euro unless expressly agreed otherwise.
2. If Client fails to timely pay an invoice, he/she shall legally be in default and the legal (commercial) interest is due by Client. In such a case, Client shall pay interest on each month or any part thereof, whereby any part of a month is considered an entire month. The interest on the amount due shall be calculated from the time that Client is in default until the time of payment of the entire amount that is due.
3. As from the time that Client is in default, Client shall also be held to reimburse all (extra)judicial costs and enforcement costs to be made relating to the collection of the amounts invoiced. The extrajudicial costs are set at 15% (fifteen percent) of the principal with a minimum of 40 euro (forty euro) excluding vat, unless stipulated otherwise by law.
4. Payments shall in the first place serve to reduce the costs, secondly to reduce the outstanding interest and finally to reduce the principal and the accrued interest.
5. Contractor shall have the right to refuse an offer to pay, and this shall not constitute an omission on his/her part, if Contractor assigns a different order for the attribution of the payment, Contractor may refuse full payment of the principal, if this payment does not include the arrear and accrued interest and collection costs.
6. Complaints concerning the height of the invoice must be lodged in writing within 8 (eight) days of invoice date. After that time, complaints shall no longer be taken into consideration and Client's right to complain shall cease. Client shall never be entitled to settlement of what he/she is due to Contractor.

Article 12. Complaints and investigations

1. If Client does not lodge a written complaint with Contractor after he/she has discovered or should have discovered a fault in the performance of Contractor, Client shall no longer be able to claim this fault.
2. Client shall not have the right to suspend his/her (payment) obligations if Client believes he/she has a right of complaint.
3. Client must enable Contractor to investigate a complaint or to have it investigated.
4. In the event of founded and timely complaints, Contractor shall to his sole discretion, either repair the supplied goods or replace them against returning the originally supplied goods, or pay Client an alternative compensation or credit a proportional part of the invoice.
5. If it is established that a complaint is unfounded, the costs relating thereto incurred by Contractor shall fully be to the account of Client.

Article 13. Force Majeure

1. If Contractor cannot, not timely or properly fulfil his/her obligations under the Agreement as a result of a cause that cannot be attributed to him/her, such obligations shall be suspended until the time that Contractor is able to fulfil these in the agreed manner. Illness on the side of Contractor will in each case be considered as force majeure.

2. If the period in which fulfilment of the obligations of Contractor is not possible, is longer than two months, parties are authorized to terminate the Agreement without any right of Client to compensation for damages. The performance already effected under the Agreement, shall then be settled proportionately.

Article 14. Liability

1. Contractor shall not be liable for any damages of whatever nature that have arisen from the fact that Contractor has based himself on incorrect and/or incomplete data supplied by Client.
2. Should Contractor be liable for any damages whatsoever, the liability of Contractor shall be limited to the invoice amount, at least to that part of the amount to which the liability is related.
3. Contractor shall exclusively be liable for direct damages.
4. Direct damages shall exclusively be the reasonable costs to establish the cause and the scope of the damage, insofar as the establishment relates to damages in the sense of these General Terms and Conditions, any reasonable costs incurred to bring the faulty performance by Contractor in line with this Agreement, insofar as these may be attributed to Contractor and reasonable costs incurred to prevent or limit the damage insofar as Client proves that these costs have resulted in a limitation of the direct damages as referred to in these General Terms and Conditions.
5. Contractor shall never be liable for indirect damages, including consequential damage, loss of profit, missed savings and damage through work stagnation.
6. Any claims of Client to Contractor shall lapse after a period of 1 (one) year after completing the assignment.
7. The limitations of the liability included in this article, shall not apply when the damage is due to intent or wilful recklessness of Contractor.

Article 15. Secrecy clause

1. Client and Contractor shall be held to secrecy of all confidential information that they have acquired from each other within the framework of the Agreement or from any other source. Information shall be considered as confidential when this has been indicated as such by the other party or when this ensues from the nature of the information.
2. If Contractor, on the grounds of legal condition or a court order, is held to supply confidential information to a third party appointed thereto by law or the competent court and Contractor cannot appeal to any entitlement to refuse to give evidence, Contractor shall not be held to any compensation or redress for damages and Client shall not have the right to annul the assignment on the grounds of any resulting damages.
3. Client and Contractor shall impose their obligations on the grounds of this article to any other third parties to be commissioned by them.

Article 16. Processing of Personal Data

1. Insofar as processing of personal data of a counterparty is processed in the context of the services of EUROPOLARIS, this personal data will be processed in a proper and careful manner, in accordance with the Data Protection Act and the General Data Protection Regulation. EUROPOLARIS refers to the Privacy Statement on www.europolaris.nl for further information.
2. In addition to the previous paragraph 1, EUROPOLARIS also notes that appropriate technical and organizational measures will be taken to protect the personal data processed from a counterparty against loss or any other form of unlawful processing, taking into account the current state of the art and the nature of the processing.

Article 17. Intellectual property

1. All models, works and/or inventions developed by Contractor on behalf of Client are and shall remain the property of Contractor. This shall include all intellectual property rights including but not limited thereto any copyrights, model rights and or patent rights.
2. All documents, such as reports, computer programmes, system designs, methods, advice and contracts issued by Contractor on behalf of Client, may be used by Client and may be multiplied by Client for his own use within the own organisation. The documents supplied by Contractor may not be made public, multiplied and/or exploited or made known to any third parties by Client unless the nature of the supplied documents determines otherwise.

Article 18. Indemnification of third parties

1. Contracting party indemnifies Contractor against any possible claims by third parties that incur losses in relation to the execution of the Agreement and the cause of which cannot be attributed to Contractor.
2. Client shall be held to support Contractor in and out of court in the event that Contractor is addressed on the grounds of the first paragraph of this article and to immediately take all actions that may be expected from him/her in such a case.

When Contracting party is in default with respect to taking adequate measures, Contractor, without any requirement for a notice of default, shall be entitled to proceed thereto himself. All costs and damages on the side of Contractor and third parties resulting thereof, shall fully be to the account and risk of Client.

Article 19. Time limit

1. In deviation of the legal time limits, the time limit of all claims and defences with respect to Client shall be 1 (one) year.

Article 20. Contract takeover

1. Client shall not have the right to transfer any obligation from the Agreement to third parties without the written consent of Contractor. Insofar as Contractor may have given written permission for a contract takeover, Client shall at all times be jointly liable with such third party for the obligations from the Agreement of which these General Terms and Conditions constitute a part.
2. Furthermore, insofar as Contractor may have given written permission for a contract takeover, Client shall inform Contractor in advance thereof and Contractor shall have the right to terminate the Agreement as per the date on which the transfer comes into effect. Contractor shall not be held to pay any compensation for damages in such an event.

Article 21. Applicable law

1. All Agreements between Contractor and Client shall exclusively be governed by the law of the Netherlands.
2. Without prejudice to the right of Contractor to submit a dispute to the competent court by law, disputes between the parties shall in first instance be submitted to the competent court in the place of business of Contractor, unless prescribed as mandatory according to the law.

Note:

This is a translation of the Dutch version of the General Terms and Conditions. Although due care was taken to provide an accurate translation, a proviso should be made here and the Dutch text will be leading in the event of a dispute.