



## **GENERAL TERMS AND CONDITIONS**

### **Article 1 Applicability of terms and conditions**

1. These terms and conditions apply to all legal relationships (including quotations, offers, activities, agreements and all obligations arising thereunder) in which the user, GI or Not on Paper, of these terms and conditions (hereinafter: supplier) acts as a service provider for a client/clients or its legal successor. This applies in all cases for ongoing and also to future agreements for services.
2. The applicability of any general terms and conditions applied by the client is hereby expressly rejected.

### **Article 2 Offers and creation of agreement**

1. All orders/agreements are entered into by the supplier and carried out in full on its behalf, i.e. not by or on behalf of an individual (natural) person who works for the supplier. By way of deviation to articles 7:404, 7:407(2) and 7:409 of the Civil Code, those persons or auxiliaries are never personally bound or liable. All claims for compensation directed to an advisor (someone who issues advice for or on behalf of the supplier), employees of the supplier or (other) persons or auxiliaries is excluded.
2. If and to the extent that any provision of these terms and conditions is declared null or is annulled, this does not affect the validity of the other provisions of these terms and conditions.
3. Offers made by the supplier are valid for 30 days unless otherwise indicated in writing. This period begins once the supplier has sent the offer to the client.
4. An agreement is only created between the supplier and client if the supplier has confirmed in writing receipt of the client's accepted offer within 14 days of receipt thereof, or once the supplier has clearly begun to carry out the activities offered, without immediate objection from the other party.
5. The prices stated in the offer or quite are exclusive of VAT, unless stated otherwise.

### **Article 3 Execution of the agreement**

1. The supplier shall make every effort to carry out its services with due care and, where appropriate, in accordance with agreements and procedures recorded in writing with the client. All supplier services are performed on the bases of a best efforts obligations, unless and insofar as the client has expressly promised a result in the written agreement and the result concerned has also been described with sufficient certainty.



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2. The supplier is entitled to have certain activities performed by a person designated by the supplier, including third parties, if and insofar as the supplier believes this is necessary for the proper performance of the agreement. If the supplier engages auxiliaries when executing an order, the supplier is not liable for any shortcomings incurred by these auxiliaries. If an auxiliary wishes to limit his or her liability, the supplier is competent to accept the limitation on liability partially on behalf of the client.
3. The client shall ensure that all collaboration and data the supplier indicates are necessary, or which the client ought reasonably to understand are necessary for the execution of the agreement, are provided in good time, free of viruses or faults of any kind, in the format indicated by the supplier. If the data necessary for executing the agreement are not provided to the supplier in good time, the supplier is entitled to suspend the execution of the agreement and/or to charge for the costs arising from the delay at the tariffs agreed with the client, or if there are none at the supplier's standard or usual tariffs.
4. If it has been agreed in writing that the agreement is to be executed in phases, the supplier may suspend the execution of parts belonging to a subsequent phase until the client has approved the outcomes of the previous phase in writing.
5. Activities are carried out during normal working days, meaning: Monday to Friday, excluding recognised national holidays, during office hours between 09:00 and 17:00. Delivery times and fees, inter alia, are based on this.

### **Article 4 Contract duration; execution time**

1. Unless the order ends due to completion, according to its nature and content, or unless the order is expressly entered into in writing for a specific period, the agreement is entered into for an indefinite period.
2. The supplier shall make reasonable efforts to comply as far as possible with the (delivery) terms and/or (completion) dates, final or otherwise, stated by the supplier or agreed between the party. Interim (completion) dates stated by the supplier or agreed between the parties are always target dates, are non-binding on the supplier and are always indicative).
3. Further, the supplier is not bound by the (completion) date or (delivery) term, final or otherwise, if the parties have agreed to a change in the content or scope of the agreement (additional work, change in specification etc.) or a change in the approach when executing the agreement, or if the client does not comply with its obligations arising under the agreement, or does not do so in good time or in full. The fact that (demand for) additional work arises while executing the agreement is never a reason for the client to terminate or dissolve the agreement.
4. In the case of hosting a website, at all times there is a specified contract duration of at least one year which will always automatically renew for one year, unless terminated in writing with a notice period of two months to the end of each contract year.
5. The client is not entitled to terminate an agreement or order which was entered into for a fixed period or only ends with completion.
6. The supplier and client can terminate an indefinite agreement in writing. In this case, a notice period of at least 2 months must be given.



7. In the case of termination by the client, the client must pay for activities performed by the supplier and the client must refund the costs the supplier has incurred in relation to the agreement concluded between the parties. This also includes costs the supplier has incurred (and will have to incur) to engage third parties to execute the agreement concluded between the parties).

#### **Article 5 Termination of the agreement/non-performance**

1. The supplier is entitled to suspend the execution of the agreement for the duration of the shortcoming, or to dissolve the agreement with immediate effect:
  - a. if the client fails to meet any obligation from any agreement concluded between the parties (without any notice of default or reminder being required);
  - b. in the case of bankruptcy, (preliminary) suspension of payment, shutdown, liquidation or seizure of one or more assets of the client.
2. Suspension or dissolution by the supplier does not free the client from its obligation to pay the full amount under the agreement, or any obligation to compensation for damages to the supplier.

#### **Article 6 Fee**

1. For offers and agreements in which a fixed fee is offered or agreed, paragraphs 2, 6 and 7 of this article apply. If no fixed fee is agreed, paragraphs 3-7 of this article apply.
2. When creating an agreement, the parties may agree a fixed fee. The fixed fee does not include VAT.
3. If no fixed fee is agreed, the fee shall be calculated using hours actually worked, at the usual tariffs. If the parties disagree on the "usual tariffs", the fee shall be calculated using a standard hourly tariff of €100.00 (ex. VAT).
4. Any offers, cost estimates or indications of price in the broadest sense do not include VAT.
5. The supplier invoices for its activities and costs at the beginning of each month, unless a different payment schedule is agreed.
6. The supplier is entitled to pass on increases in costs, regardless of whether a fixed fee has been agreed. The client may only be invoiced for such an increase in fees one month after the date of written notice of this increase has been given to the client.
7. If the increase is greater than 10%, the client is entitled to terminate the agreement with immediate effect.
8. The supplier is always entitled to demand advance payment or (business or personal) securities at the supplier's discretion, which the client must comply with forthwith. This applies especially if any payment deadline is breached or the client is otherwise negligent or there is any difference of opinion.

#### **Article 7 Changes and additional work**

1. If the supplier has carried out activities or additional or different services which do not fall within the content or scope of the agreed activities and/or services when carrying



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out the order, these activities or services will be remunerated by the client in accordance with the agreed tariff or, if no tariff is agreed, at the supplier's usual tariffs. The supplier is not obliged to comply with such a request or to take action in such circumstances and can require a separate written agreement to be concluded for this purpose.

2. In the case of changes or additional work, the supplier can also require advance payment or (business or personal) securities at the supplier's discretion, which the client must comply with forthwith.

### **Article 8 Intellectual property**

1. All intellectual property rights to programmes, websites, data files, equipment, training and examination material or other materials such as analyses, drafts, documentation, reports, quotations and preparatory material thereto which are developed as part of the agreement or made available to the client remain the exclusive property of the supplier, its licensors or its suppliers. The client is granted the rights of use that are expressly recognised under these general terms and conditions, the agreement concluded in writing between the parties and the law.
2. A right of use granted to the client is non-exclusive, non-transferable (within the meaning of art. 3:38 CC), non-pledgeable (within the meaning of art. 3:38(2) CC jo. 3:98 CC) and non-sublicensable.
3. The client shall ensure that information or material it provides can be used regularly (i.e. free from copyright or other third-party rights) and indemnifies the supplier from third-party claims.

### **Article 9 Payment**

1. Payment must be made within 30 days from the date of invoice.
2. Once 30 days from the date of invoice have passed the client is automatically in default (final deadline); from the time it enters into default, the client owes statutory (commercial) interest on top of the claimable amount.
3. In the case of default, the supplier is at all times entitled to suspend all actions including at least, but not limited to, taking offline any website or domain which it hosts.
4. In the case of liquidation, bankruptcy or suspension of payment on the part of the client or if the client is declared to be in application of a debt rescheduling arrangement, the client's obligations become immediately due and payable.
5. Payments made by the client will be applied in the first place to settle all interest and costs, in the second place to settle the payable invoices that are outstanding for the longest time, even if the client states that the payment relates to a later invoice.
6. Payment must be made without discount, suspension or deduction. The client cannot invoke these competences, and they are thus thereby contractually excluded.

### **Article 10 Collection costs**



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1. If the client does not meet its obligations or does not do so in good time, then as well as the agreed price and costs, all collection charges out of court shall be for the client's account, including the costs for drawing up and issuing reminders, drawing up settlement proposals and making enquiries.
2. The client owes the supplier costs incurred by the supplier in all cases unless and insofar as the client can demonstrate that these are unreasonably high. This applies only if the supplier and the client carry out a judicial procedure in relation to an agreement and a judgement is issued in the force of res judicata under which the client is found entirely or largely at fault.

### Article 11 Liability

1. The supplier's total liability due to an attributable failure to comply with the agreement or for any legal reason, expressly including all failures to comply with a guarantee obligation agreed with the client, is limited to compensating direct damages up to a maximum amount of €2,500.00 (excluding VAT) per claim.
2. The supplier's liability for indirect damages, consequential damages, loss of profit, missed savings, diminished goodwill, damage due to business stagnation, damage resulting from claims from the client's customers, damages relating to use of businesses recommended to the supplier by the client, third-party materials or programmes and damages relating to the engagement of subcontractors recommended by the supplier by the client, is excluded. The supplier's liability relating to damage, destruction or loss of data or documents is also excluded.

### Article 12 Execution of SaaS services

1. The provisions of this article apply on a supplementary basis if the supplier provides services on behalf of or in the area of Software-as-a-Service (also known as SaaS), or: the supplier 'remotely' making available and maintaining the availability of software for the client using the internet or a different data network, without the client being issued a physical carrier with the relevant software.
2. The supplier performs SaaS services only on the instruction of the client. The client is not entitled to have third parties use SaaS services provided by the supplier unless the supplier has agreed to this. The supplier may make this agreement subject to conditions.
3. If the supplier carries out work in accordance with a request or an authorised order granted by a government body or relating to a legal obligation with regard to the client's data, its employees or users, all the related costs shall be invoiced to the client.
4. The supplier can make changes to the content or scope of the SaaS service. If such changes entail a change to the procedures in place at with the client, the supplier shall inform the client of this as soon as possible and the costs of these changes shall be borne by the client. In this case, the client may terminate the agreement in writing no later than the date on which the change takes effect, unless the change relates to changes in relevant legislation or other regulations issued by competent authorities or the supplier bears the costs of this change.



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5. The supplier may continue the execution of the SaaS service making use of a new or changed version of the software. The supplier is not obliged to maintain, change or add specific features or functionalities of the service or software specifically for the client.
6. The supplier may take the SaaS service out of use in whole or in part for preventative, corrective or adaptive maintenance or other types of servicing. The supplier shall not allow the service to be shut down for longer than necessary and shall have the shutdowns take place outwith office hours as far as possible.
7. The supplier is never bound to provide a physical carrier to the client with the software to be made available to the client and maintained as part of the SaaS service.
8. The supplier does not guarantee that software made available as part of the SaaS service is error-free and works without interruption. The supplier shall endeavour to remedy faults in the software within a reasonable period and insofar as the software was developed by the supplier itself and the relevant faults are reported in detail and in writing to the supplier by the client. If necessary, the supplier can delay the remedying of faults until a new version of the software is installed.

### **Article 13 Developing programmes, websites, or (web) applications**

1. The provisions of this article apply on a supplementary basis if the supplier creates and/or develops a software and/or website on behalf of the client and installs the software and/or website.
2. The supplier shall develop the software and/or website with care and in compliance with expressly agreed specifications or design and - where applicable - in compliance with project organisation, methods, techniques and/or procedures agreed with the client in writing. Before starting to develop the software and/or website, the supplier can require the client to agree to the specifications or design in writing.
3. If the parties use a development method which assumes that the design and/or development of (components of) the software or website is done in an iteratively (for example Scrum), the parties accept that at the outset these activities shall not be carried out on the basis of complete or fully-developed specifications and also that specifications, whether or not agreed at the beginning of the activities, may be adjusted in mutual consultation during the execution of the agreement taking into consideration the project approach belonging to the relevant development method. During the execution of the agreement the parties shall take decisions regarding the specifications applicable to the next phase of the project (for example, a time-box) and/or for the next sub-development, jointly in consultation. The client accepts the risk that the software and/or the website does not necessarily meet all specifications.
4. In the absence of specific agreements on this matter, the supplier shall commence the design and/or development work within a reasonable period to be determined by the supplier after entering into the agreement.
5. In the supplier's performance obligations regarding the development of a website, the making available of what is known as a 'content management system' is not included.
6. The maintenance of the software and/or the website, and/or providing support to users and/or managers thereof is not included in the supplier's performance obligations. If maintenance and/or support must be provided by the supplier regardless by way of deviation from the foregoing, the supplier can require the client



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- to enter into a separate written agreement for this. These activities shall be invoiced separately at the supplier's usual tariffs.
7. If the parties have not agreed on an acceptance test, the client accepts the software and/or website in the state in which it is at the time it is supplied ('as is, where is'), and therefore with all visible and invisible faults and defects.
  8. If an acceptance test is agreed, the test period is fourteen days from delivery or, if installation by the supplier is agreed in writing, fourteen days from installation being completed.
  9. The software and/or website shall be deemed to be accepted between the parties:
    - a. if the parties have agreed an acceptance test: on the first day after the test period, or
    - b. if the supplier receives one before the end of the test period: at the time that the faults listed in the test report are remedied, notwithstanding the presence of faults which do not hinder acceptance in accordance with paragraph 9, or
    - c. if the client in any way uses the software and/or website for productive or operational purposes: at the time the software and/or website is put into operation.
  10. The client may not withhold acceptance of the software and/or website for reasons not relating to the specifications expressly agreed in writing between the parties, and, furthermore, not due to the presence of small faults, i.e. faults which reasonably do not impede the operational or productive use of the software and/or website.

### **Article 14 Web service, service management and cloud computing**

1. If the supplier provides webservice services to the other party - such as server management (hosting) and/or cloud computing, as regards the use of the server/its data traffic the other party is prohibited:
  - a. from acting in conflict with 'netiquette';
  - b. from breaching intellectual property rights or other rights of third parties;
  - c. from distributing, making accessible and/or offering (whether or not through third-party banners/advertisements on the website) information which conflicts with Dutch laws and regulations;
  - d. from being engaged in any way with cybercrime, 'phishing' or 'spear fishing', 'spamming' and similar;
  - e. from using the supplier's services to encourage/engage in illegal activities or activities which may be damaging to the supplier's server or other servers connected to the internet. This includes, for example, reference to/offering what is known as 'pirated' software, 'hacker' programmes or archives, or 'warez' sites;
  - f. from otherwise committing an offence, including distributing or making available information which is in conflict with state security, public order or morality or which is offensive, threatening, hateful or discriminatory in nature.
2. The other party indemnifies the supplier against third-party claims arising from the way in which it uses websites provided by the supplier.
3. In the event of (possible) criminal information/offences, the supplier may declare these and in doing so provide all relevant information to the competent authorities regarding the other party and its conduct and carry out all other activities these bodies



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require the supplier to do in the context of an investigation. In the case of (repeated) founded complaints regarding the information offered by the other party, the supplier may also dissolve the agreement by means of a written declaration. The supplier shall inform the other party of proposed dissolution in good time. The supplier is not liable for any damages the other party suffers as a result of this.

4. The supplier may limit the data traffic/the quantity of storage space. If an agreed limit is exceeded, the supplier may charge the other party for the associated additional costs or damage the supplier suffers.
5. The supplier shall endeavour to ensure that the other party can use the hosting networks which are directly/indirectly connected to the user's network. However, the supplier cannot guarantee that these networks will be available 24/7.
6. If - in the view of the supplier - there is a danger to the operation of the computer systems or network of the supplier/third party or to the operation of service provision through a network (for example, by excessive amounts of data being sent, poorly-protected systems or virus activities), the supplier may take all measures it deems necessary to avert/prevent this danger. The supplier is not liable for any damages the other party suffers as a result of this.
7. Unless the parties agree otherwise in writing, the agreed web service is granted for a period of 12 months and is subject to tacit renewal for the same period each time, unless one of the parties terminates the agreement in writing at least 2 months before the end of the period.
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### **Article 15 Disputes and applicable law**

1. Any disputes which may arise between the supplier and client shall be submitted to the court of Oost-Brabant in the first instance, unless the client opts for the competent court according to law
2. All agreements between the supplier and client are governed exclusively by Dutch law.