

General Terms and Conditions of Synthese

CLAUSE 1. Offer and agreement

1.1 These General Terms and Conditions are applicable to all offers and agreements for the provision of services by Synthese Rhenen B.V., also acting as Synthese and Synthese Consultancy, hereinafter indicated as the Contractor, except insofar as the parties have explicitly agreed otherwise in writing.

1.2 Offers are free of obligation unless otherwise indicated. Contract activities can be accepted verbally or in writing.

1.3 Any purchase or other conditions of the Client are not applicable to agreements with the Contractor.

CLAUSE 2. Rates and payment

2.1 All prices and rates are exclusive of value added tax (VAT) and other levies imposed by the authorities.

2.2 If during the term of the agreement the date of 31 December is passed, the Contractor will be entitled to adjust his prices and rates for the activities to be performed in the next year. The Contractor will announce these adjustments in writing with due observance of a period of at least one month before the commencement date. If the adjustment exceeds the usual indexations (Statistics Netherlands CBS inflation index) and the Client does not agree to the adjustment of prices and rates announced by the Contractor, the Client will be entitled to terminate the agreement in writing within 7 days after the date of the said notice, as from the date on which the price or rate adjustment would have become effective.

2.3 In the absence of specific conditions the Client must pay the invoice within 30 days without any deductions, discount or set-off. The Contractor reserves the right to demand payment in advance. The Contractor is entitled but not obliged to issue interim invoices. Complaints with regard to the invoice must be notified in writing to the Contractor within eight days after having received the invoice.

2.4 In the absence of prompt payment the Client will be in default without any notice of default or demand being required and from the due date of the invoice until the date of payment he will owe interest on the outstanding amount of 1% per calendar month or part calendar month unless the statutory 'commercial' interest rate according to Section 6:119a of the Dutch Civil Code or a replacement legal provision is higher in which case the statutory 'commercial' interest rate will be due.

2.5 If the Client does not pay even after a written demand, apart from the amount then due he will also be obliged to compensate the Contractor for all judicial and extra-judicial collection costs, including the legal fees. The amount of these costs is determined as at least 15% of the total amount due, with a minimum of EUR 250. If the actual extra-judicial costs are higher, the actual extra-judicial costs can be charged.

2.6 In the event that the Client is found to be at fault in a legal action or in one of the forms of alternative dispute settlement, he will owe the reasonable and proportionate court costs and other costs incurred by the Contractor, by analogy of Section 1019h of the Dutch Code of Civil Procedure or a replacement legal provision.

2.7 An extract from the accounts of the Contractor will serve against the Client as full evidence of hours spent and costs incurred, subject to evidence to the contrary furnished by the Client.

CLAUSE 3. Confidentiality and secrecy

3.1 Each party will take all precautions reasonably to be taken in order to keep the confidential information received from the other party secret. Information will be deemed to be confidential if it has been specified as such by a party or if such is evident from the nature of the information.

3.2 Without the written consent of the other party(ies) the parties will not mention in publications or advertising statements the existence and/or the contents of any agreement formed between them and/or the activities carried out in connection with an assignment and/or the results obtained from this.

3.3. If the Client violates the obligations referred to in paragraph 1 and 2, he will forfeit a penalty immediately due and payable of EUR 5,000 for each violation or, at the Contractor's discretion, EUR 1,000 for every day that the violation continues. The obligations in paragraph 1 and 2 do not apply to the submission of documents in a legal action or a form of alternative dispute resolution.

CLAUSE 4. Intellectual property

4.1 Intellectual property rights accruing to the Contractor will only be transferred to the Client if that has been agreed in writing. That is why the Client is for instance not allowed without the prior written consent of the Contractor to do the following with regard to works, such as documents, on which copyright and other intellectual property rights exist:

- a. to change or edit them;
- b. to remove or change any notice with regard to copyrights and other intellectual property rights.

4.2 The Client is entitled to use the documents and other works referred to in the previous paragraph for the purpose for which they are issued and to make copies of them for personal use.

4.3 The Client guarantees that no rights of third parties oppose the provision of equipment, software or other materials for the performance of the agreement. The Client will indemnify the Contractor against any claims by third parties with regard to this provision and the use made of the equipment, software or other materials which are provided.

CLAUSE 5. Obligations of the parties

5.1 The Contractor is obliged to perform his contracted activities independently to the best of his knowledge and abilities and in doing so to comply with the code of conduct of the NVBI (*Nederlandse Vereniging van beëdigde informaticadeskundigen NVBI*).

5.2 If on accepting and/or performing his activities the Contractor is faced with facts or circumstances which could negatively affect the progress of his activities and/or the result of his services, the Contractor will inform the Client of this as soon as possible.

5.3 The Client must provide the Contractor within due time with all the information and with all the necessary cooperation which the Contractor needs for the proper performance of the

contracted activities.

5.4 If the information required for the performance of the contracted activities is not made available to the Contractor, not made available within due time, or not in accordance with the arrangements, or if the Client does not fulfil his obligations in any other way, the Contractor will be entitled to suspend the performance of the contracted activities and he will be entitled to charge the costs caused by this in accordance with his current rates.

5.5 The one party will not without the prior written consent of the counterparty employ or otherwise let work for him directly or indirectly during the term of the agreement and also one year after its termination, any employees of the other party who were involved in the performance of that agreement. The Client guarantees that the provisions in this paragraph will also be fulfilled by third parties affiliated to the Client such as companies in (and/or outside) the Netherlands, belonging to the Client's group or the group of which the Client is a member.

CLAUSE 6. Modifications, contract variations

6.1 The Client accepts that if the services and/or activities to be provided are extended or modified, this could affect the completion time of the activities and the budgeted costs.

6.2 The Contractor must inform the Client as soon as possible if circumstances occur resulting in an adjustment to the contracted activities and/or the expected deployment and period of time. The Contractor is entitled to send additional invoices if such circumstances occur.

CLAUSE 7. Transfer and subcontracting

7.1 The Parties are not entitled to transfer to a third party any rights or obligations in respect of the agreement without the written consent of the other party. Such consent may not be withheld without reasonable grounds. However, the party giving consent is entitled to attach conditions to giving this consent.

7.2 The Contractor is entitled at his discretion to engage third parties.

CLAUSE 8. Liability

8.1 If one of the parties fails in the performance of one or more of his obligations under the agreement, the other party must send a proper notice of default in writing with as much detail as possible granting a reasonable period in which to remedy the failure with the exception of the provisions in Clause 2 paragraph 4.

8.2 A party who fails attributably in the performance of his obligations will be liable to the other party(ies) to compensate for the loss which has arisen as a result of this on the part of this/these other party(ies).

8.3 The liability of the Contractor due to an attributable failure in the performance of the agreement is, with regard to contracted activities with a term up to six months, limited to compensation for the loss up to a maximum of the amount of the fee stipulated for the agreement. With regard to contracted activities with a longer term the compensation will not be more than the amount of the fee for the last six months.

8.4 The Contractor's liability for indirect loss, consequential loss, lost profits, savings not

accrued and loss due to business interruption is excluded.

8.5 The Client will indemnify the Contractor against any claims by third parties in connection with entering into and/or executing the agreement.

8.6 The legal effect of Sections 7:404 and 7:407 subsection 2 of the Dutch Civil Code is excluded.

8.7 The liability of the Contractor is excluded for employees or third parties engaged by the Contractor if the Client stipulated that the Contractor must engage them.

8.8 The liability of the Contractor is in any event always limited to the amount paid by the Contractor's insurer as the case may be, increased by the excess.

CLAUSE 9. Force majeure

9.1 If the Contractor is affected by a force majeure situation, the Contractor must inform the Client of this as soon as possible. The parties will try to reach a reasonable solution in mutual consultation.

9.2 If as a result of force majeure the Contractor suspends his performance for more than three months, the Client will be entitled to dissolve the agreement by means of a registered letter without judicial intervention.

CLAUSE 10. Termination

10.1 Apart from what has been provided elsewhere in the agreement, either party will be entitled without any demand or notice of default being required to dissolve the agreement with immediate effect extrajudicially if the other party:

- a. applies for a (provisional) moratorium or has been granted a (provisional) moratorium, the other party applies for his bankruptcy or is declared bankrupt;
- b. the business of the other party is wound up;
- c. the other party ceases his current business operations or a substantial part of the assets of the other party is seized or if the other party should otherwise no longer be considered as able to fulfil the obligations under the agreement;
- d. has reasonable fear that one of the cases referred to in a to c will occur during the term of the agreement.

10.2 Apart from what has been provided for in the previous paragraph and elsewhere in the agreement, either party will be entitled to dissolve the agreement extrajudicially by means of a registered letter if the other party fails attributable in the performance of material obligations under the agreement, after having been given a reasonable period to remedy the failure. The obligation to send a notice of default is not required in the case referred to in Clause 2 paragraph 4.

10.3 Obligations which by their nature are intended to last even after termination and/or dissolution of the agreement, will continue to exist afterwards.

10.4 The legal effect of Section 7:408 of the Civil Code is excluded.

10.5 If:

- a) it appears that the Client has withheld essential information or
- b) the Contractor has a reasonable fear that the Client will not fulfil his obligations to the Contractor,

the Contractor will be entitled to dissolve the agreement without being obliged to pay compensation or a payment unless otherwise provided for in mandatory legislation. The Client will continue to owe the costs incurred and hours spent until that time. The Contractor is entitled to continue the agreement instead of dissolving it and to invoice for the additional work.

10.6 All agreements will terminate in the manner referred to elsewhere in these General Terms and Conditions or in the agreement but in any event as soon as the Contractor has fulfilled his obligation to perform to the best of his abilities.

CLAUSE 11. Applicable law and forum agreed upon

11.1 Agreements between the Client and the Contractor are governed by Dutch law.

11.2 Any disputes that might arise between the Contractor and the Client in connection with an agreement entered into between the Contractor and the Client or in connection with further agreements arising from it, will be settled by means of arbitration in accordance with the Arbitration Regulations of the Dutch Foundation for the Settlement of Automation Disputes (*Stichting Geschillenoplossing Automatisering*) (see www.sgoa.org), with its registered office in The Hague, all this notwithstanding the right of either party to apply for interim relief in arbitration and notwithstanding the right of either party to seize property before judgement.

11.3 Before instituting arbitration proceedings as meant in Clause 11.2, any interested party must institute ICT Mediation proceedings in accordance with the ICT Mediation Regulations of the Foundation for the Settlement of Automation Disputes in The Hague. ICT Mediation proceedings according to these regulations are aimed at mediation by one or more mediators. The counterparty undertakes to participate actively in the ICT Mediation proceedings instituted, which in any event includes the obligation enforceable by law to attend at least one joint meeting of mediators and the parties in order to give this extrajudicial form of dispute settlement a chance. Either party will be free to terminate the ICT Mediation proceedings at any time after the joint first meeting of mediators and the parties. The provisions in this paragraph of this Clause do not object to a party, if considered necessary by this party, applying for interim relief (in arbitration) or seizing property before judgement (see www.sgoa.org and www.sgoa.eu).

In case of dispute the original Dutch text is leading.