

GENERAL TERMS AND CONDITIONS ETL NEDERLAND

In the event of interpretation differences between the Dutch general terms and conditions and the English translation thereof, then the Dutch language version is leading.

I. Definitions; applicability

Article 1. Definitions

The following definitions are used in these general terms and conditions:

- a. Contractor: the entity concluding the agreement and using these general terms and conditions.
- b. Other party or client: the legal entity or person that/who has given the contractor the assignment to perform services.
- c. Parties: the contractor and other party/client jointly.
- d. Services/Performances: all forms of services assigned or performed or supposed to be performed by the contractor on a different basis.
- e. Agreement: the assignment granted by the other party and accepted by the contractor for the performance of certain services, subject to the exclusion of article 7:404 and 7:407 subsection 2 and 7:409 Dutch Civil Code.

Article 2. Applicability

1. These general terms and conditions apply to all legal relations between the parties, notwithstanding deviations explicitly confirmed in writing by both parties. The client with whom the agreement is concluded subject to these general terms and conditions, accepts the applicability of these general terms and conditions on all subsequent quotes, legal relations and agreement concluded by the contractor and the client.
2. Deviations from and/or additions to these general terms and conditions are only binding to the contractor insofar as these have been explicitly agreed in writing by the contractor and the other party and only relate to the specific agreement for which deviations and/or additions have been agreed. These general terms and conditions of the other party/parties do not apply to any Agreement or legal relations between the parties; the applicability thereof is explicitly excluded.
3. All provisions in these general terms and conditions have also been drawn up for the benefit of the partners and/or directors of the contractor and all those who are working or have worked for the contractor.

Article 3. Transfer of rights and obligations

1. The other party will not (be permitted to) transfer the rights and obligations it is subject to under this agreement (including the applicability of these general terms and conditions and applicable additional arrangements), in part or in full, to third parties without the prior explicit permission of the contractor.
2. In the event of a (partial) transfer and/or change in its company, which involves the performs provided by the contractor, the other party must impose these general terms and conditions to its (legal) successors and/or partners; in the absence of which the contractor remains liable for any default on their part.

Article 4. Multiple parties - several and joint relation

If the contractor concludes an agreement with two or multiple other parties (e.g. group companies), these other parties are liable jointly and severally. The contractor holds the right to compliance of the whole agreement in respect of each of them.

Article 5. Change of business contractor

The terms and conditions stated herein remain applicable in force in the event that the company of the contractor changes name, legal form or owner, in full or in part.

II. Quote and confirmation; concluding the agreement

Article 6. Quotes; confirmation

1. Quotes issued by the contractor are always free of obligation and revocable, unless otherwise is explicitly stated in writing.
2. A power of attorney issued by the other party to the contractor for the performance of a legal act is irrevocable and does not end due to the death, bankruptcy or curatorship of the other party.
3. In consultation with the other party, the contractor will determine the expectations the parties have of each other with regard to the activities and what each responsibility is in this respect.
4. The confirmation of the consultation referred to under subsection 3 includes a reference to activities to be performance, a payment arrangement, the settlement of the costs, the responsibility of the contractor and of the other party and any arrangements with regard to the providing of services.

5. The other party receives the written confirmation referred to in the previous subsection in duplicate and returns a signed copy thereof to the contractor. Unless the other party indicates in writing, within eight days of receipt, that it denies the correctness of its content, he is bound to the content of the written confirmation.

Article 7. Agreement; conclusion; termination; suspension

1. Activities are exclusively performed by the contractor on the basis of the agreement of assignment (referred to in these general terms and conditions as: 'agreement' or 'assignment'). Assignments are only accepted with exclusion of articles 7:404 and 7:407 subsection 2 Dutch Civil Code. This also applies if it is the explicit or implicit intention of the client that the assignment will be performed by a certain person or persons. The agreement is entered into for an indefinite time, unless the content, nature and intent of the given assignment implies that it is entered into for a definite period of time.
2. The agreement is concluded the moment the contractor receives the assignment confirmation signed by the client. The confirmation is based on the information provided by the client to the contractor at that time. The confirmation is deemed to be a correct and complete reflection of the agreement. As regards the conclusion of the agreement, the contractor can only be represented by authorised representatives within the organisation of the contractor.
3. The parties are free to prove that the agreement has been concluded in another way. The fact that activities have been performed for the benefit of the other party constitutes proof of the existence of an agreement, unless the other party informs the contractor in writing that it does not agree with the service provision within eight days after having received any written document with regard to the activities.
4. The client and the contractor can terminate the agreement at all times. The termination must be notified to the other party in writing. If the client has proceeded to (intermediately) terminate the agreement, the contractor is entitled to a payment of the operational loss it has suffered and which can be substantiated, as well as payment of additional costs already incurred by the contractor and the costs resulting from the possible cancellation of third parties engaged in the agreement (such as any costs with regard to subcontracting).
5. The contractor is authorised to suspend the compliance of all its obligations after a careful weighing of interests, including the issue of documentation or other items to the client or third parties, until all the payable claims on the client have been paid in full. That stated in this article does not apply to documentation of the client that have not been processed by the contractor (yet).

Article 8. The making available of information by the client

1. The client must make all the information and documentation the contractor deems necessary for the correct performance of the granted assignment available to the contractor in the desired form, in the correct manner and in time.
2. The client guarantees the correctness, completeness and reliability of the information and documentation made available to the contractor, even if these are obtained from third parties, insofar as the nature of the assignment requires otherwise.
3. If and insofar requested by the client, the documentation made available is returned to the client.
4. The additional costs and additional fee resulting from the performance of the assignment, caused by the not making available of the requested information, or by the late, incomplete or incorrect provision thereof are payable by the client.

III. Performance and other provisions

Article 9. Performance of the assignment

1. The client stipulates the way in which the granted assignment is performed and determines the person or persons and the means with which its organisation will perform the agreement, subject to the exclusion of that stated in article 404, 407 subsection 2 and 409 of book 7 of the Dutch Civil Code.
2. The contractor performs the assignment in accordance with due observance of all the professional conduct and code of conduct the professionals are subject to during the performance of the agreement.
3. Insofar as this is required for the sufficient performance of the agreement, the contractor is authorised to use (the services of) third parties without notifying the other party thereof. The contractor is authorised to recharge the costs involved with the engagement of these third parties to the other party.
4. If the contractor needs to engage the services of third parties during the performance of the agreement, the contractor will discuss this beforehand with the other party as much as possible and will take due care when selecting the relevant third party/parties. The contractor is explicitly not liable in respect of the other party for any shortcomings of these third parties and is authorised, without prior consultation with the client, to accept any liability limitation of the third parties it has engaged (also) on the client's behalf.

5. If during an assignment for the profession of the company or the other company activities were performed that do not form part of the services agreed in the assignment confirmation, then the suspicion is derived from the notes in respect thereof in the administration of the contractor that these activities have been performed in incidental assignment of the other party. These notes need to relate to the intermediate discussions between the other party and the contractor.

Article 10. Confidentiality and exclusivity

1. The contractor must keep confidential data and information provided by or on behalf of the client in respect of third parties that are not involved in the performance of the assignment. This obligation does not apply if the contractor has a statutory or legal duty to make information public, including the notification duty resulting from the Act for the prevention of money laundering and financing of terrorism and other national and/or international legislation of a similar content, or insofar as the client has released the contractor of the confidentiality clause. This provision does not obstruct confidential consultations with colleagues within the organisation of the contractor if required for a conscientious performance of the assignment or for the (conscientious) compliance with statutory or professional obligations.
2. The contractor is not authorised to use the information made available to it by the client for another purpose than for which it was obtained. However, an exception is made in the event that the contractor acts on its own behalf in a penalty, civil or criminal procedure in respect of which this documentation could be important. The contractor is authorised to use the figures obtained after processing, provided the outcome cannot be retraced to individual clients, for statistical or comparative purposes.
3. Unless the contractor has given its advance written permission thereto, the client will not make public the content of reports, advice or all other information of the contractor not provided in writing, not drawn up or made for the purposes of providing this information to third parties. The client will also ensure that third parties cannot become aware of the knowledge referred to in the preceding sentence.

Article 11. Keeping of items and documentation

All the items entrusted to the contractor by or on behalf of the other party are kept by the contractor for the risk of the other party.

Article 12. Data leaks

1. The contractor must take all possible guarantees to prevent a data leak within the meaning of article 13 of the Data protection Act.
2. If and insofar applicable to the performance of an assignment for the client or relating to or resulting from information made available by the client to the contractor, the contractor assesses - with due observance of article 34a of the Data protection act and the Policy rules Notification duty data leaks of the Personal Data Authority - whether a data leak is involved and whether the consequences of this data leak justify a notification to the Personal Data Authority.
3. The contractor must inform the client as soon as possible of its findings with regard to a data leak and any measures it has taken, as well as any relevant information.
4. The contractor decides in consultation with the client who will notify the data leak to the Personal Data Authority and, if necessary, the parties involved.
5. That stated in this article does not withstand the client's own responsibility regarding data leaks on the basis of the Data Protection Act and the Policy Rules Notification Duty in respect of the Personal Data Authority.

Article 13. Intellectual property rights

1. The contractor retains all rights with regard to products of the intellectual property the contractor uses or has used for the performance of the assignment of the client, insofar as legal rights can exist or be established on those products in a legal sense.
2. The client is explicitly forbidden to (allow the) use, multiply, publish or exploit the above mentioned products, including computer programs, system designs, work methods, advice, (model) contracts and other intellectual products of the contractor, in the broadest sense of the word, whether or not with the aid of third parties.
3. The other party is not permitted to make (equipment of) those products available to third parties, other than for the obtaining of expert advice on the activities of the contractor.

IV. Performance periods, prices and fees

Article 14. Performance periods

1. The performance periods stated by the contractor can only be regarded as deadlines if this is explicitly agreed upon. The agreement cannot be dissolved by the client due to the exceeding of the deadline - unless the performance is without a doubt no longer possible - unless the contractor also fails to perform the agreement

(in full) within the reasonable period following the agreed delivery period. Dissolution is then permitted pursuant to article 265 Book 6 Dutch Civil Code.

2. If the client is required to pay in advance or if he needs to make certain information and/or materials available for the performance of the agreement, then the period within which the activities must be completed will not commence before the payment has been received in full, or the information and/or materials have been fully made available.
3. Exceeding the stated performance period does not entitle the client to a payment of damages, nor to any suspension right.

Article 15. Prices

1. A fee must be paid by the other party for the performance of the agreement, plus the costs within the meaning of subsection 3 of this article. Unless otherwise is explicitly agreed, the fee does not depend on the outcome of the granted assignment or the result of the activities.
2. Unless otherwise is explicitly agreed upon in writing, the contractor will invoice the other party a fee on the basis of the applicable (hourly) fee for the relevant services. These fees are determined annually by the contractor as of 1 January. If, after having concluded the agreement, one or more cost factors are subject to a price increase (whether or not due to foreseeable circumstances) the contractor is authorised to change the fee and/or other prices accordingly.
3. Unless otherwise is explicitly agreed in writing, the office costs (including secretarial costs), travel time, travel and accommodation costs and other assignment-related costs (expenses) are not included in the fee and will be invoiced separately to the client. In addition any costs incurred by the contractor to third parties and the VAT in respect of the performance of the assignment are also invoiced to the client.

V. Invoicing and payment; advertising

Article 16. Invoicing

The fee, plus the costs referred to in article 15 subsection 3 plus VAT will be invoiced monthly to the other party. The contractor is always authorised to demand an advance payment from the other party. Any advance payments received are settled with the final invoice.

Article 17. Payment

1. Payment by the client must be made, without deduction, discount or settlement of debt within thirty days after the date of invoice, unless another payment period has been agreed. Payment must be made in Dutch currency by way of bank transfer into the bank account as stated by the contractor.
2. If the other party fails to pay the amount stated in the previous subsection, or fails to pay within the agreed period, if he is legally in default and the contractor is entitled, without further summons and/or notice of default, to invoice the interest referred to in the next subsection as of the payment deadline up until the date of the full payment.
3. The interests charged by the contractor in the event of the default of the other party is the statutory interest within the meaning of article 6:119 and 6:120 Dutch Civil Code, if the other party is a natural person and is not acting in a professional capacity or on behalf of a company.
In the event of an agreement with another party that is a natural person or partnership that acts in the performance of a profession or a company or as a legal entity, the above mentioned interest is equal to the refinancing interest established by the European Central Bank with the first calendar day of the relevant half year as reference date, plus seven percent in the understanding of the interest invoiced by the contractor and payable by latter or other parties will never be less than twelve percent.

Article 18. Debt collection and surety

1. All the legal and extra judicial (debt collection) costs in respect of the collection of any money due by the other party to the contractor are payable by the other party. In the event of an agreement with the other party who is a natural person, the extra judicial costs are calculated on the basis of the Standardisation extra judicial debt collection costs Act and the accompanying sliding scale. In the event of an agreement with another party who is a natural person or a partnership that acts in the performance of a profession or company or a legal entity, the extra judicial costs are set at fifteen percent of the amount due by the other party with a minimum fee of EUR 150 (hundred and fifty euro).
2. If the contractor considers the financial position and/or payment behaviour of the client gives the contractor reason to authorise the demand for immediate (additional) surety from the client in form to be determined by the contractor. If the client fails to provide the requested surety, the contractor is authorised, notwithstanding its other rights, to immediately suspend the further performance of the assignment and all that payable by the client to the contractor in this respect is immediately payable.

Article 19. Complaints

1. All complaints with regard to the activities performed by the contractor and/or the invoiced amount must be sent in writing within thirty days after the delivery date of the activities, the invoice or the information with regard to which the other party sends the complaints, or notify the contractor within thirty days of discovering the failure if the other party shows that he is not reasonably able to discover the failure earlier; in the absence of which the other party is deemed to have accepted the performance.
2. If the other party has processed and/or used the performance in full or in part, it is deemed to have approved it.
3. Complaints within the meaning of this article, do not suspend the payment obligation of the other party.
4. The single fact of dealing with a complaint, does not mean that it is regarded as submitted on time and/or correctly submitted.

VI. Liability and force majeure**Article 20. Liability and indemnification**

1. The contractor will be able to perform the activities to the best its ability and thereby take due care of a service provider as can be expected in its relevant capacity.
2. The client indemnifies the contractor against claims of third parties, including shareholders, directors, supervisory board members and staff of the client, as well as affiliated legal entities and businesses and others involved with the organisation of the client which are directly or indirectly related to the performance of the agreement. The client specifically indemnifies the contractor against claims of third parties due to damage caused as a result of the client having provided the contractor with incorrect or incomplete information, unless the client shows that the damage is not related to an imputable act or failure to act of the client or is caused by intent or gross negligence of the contractor.
3. Notwithstanding intent or gross negligence of the contractor, the liability of the contractor is limited to the amount that is paid out for the case in question by its professional liability insurance. The contractor does not accept liability for the amount equal to the own risk under its professional liability insurance. If, for whatever reason, no payment is made under the professional liability insurance, each liability of the contractor is limited to an amount for twice the amount of the fee for the relevant assignment (over the last calendar year). The contractor is only liable if the total damage, i.e. as a result of one shortcoming or resulting from multiple shortcomings, exceeds EUR 10,000.
Intent and/or gross negligence of subordinates and/or non-subordinates, the services of which the contractor has engaged for the performance of the activities, cannot be regarded as intent and/or gross negligence of the contractor in the preceding sentence.
4. The contractor does not accept any liability for any indirect damage, including business interruption in the company of the other party in any way related with or caused by a mistake in the performance of the activities of the contractor.
5. The contractor is not liable for damage or destruction of data and/or documentation during transport or whilst in the post, regardless of whether the transport or sending is done by or on behalf of the other party, third parties or the contractor. During the performance of the assignment the client and the contractor can communicate with each other by electronic means. The contractor is not liable for damage as a result of the use of electronic means of communication, including, but not limited to, damage resulting from the non-delivery or delay in electronic communication by third parties or due to the programs/equipment used for sending, receiving or processing electronic communications, transmittance of viruses and the incorrect operation of the telecommunication network or other means required for electronic communication, except insofar as the damage is the result of intent or gross negligence. Both the client and the contractor will do or not do everything that can reasonably be expected of them in order to avoid the occurrence of the above mentioned risks. The data extracts from the computer system of the contractor will provide decisive proof of (the content of) the electronic communication sent by the sender, except there is proof to the contrary.
6. If the client threatens to suffer damage or suffers damage for which the contractor could be liable, the client will immediately notify the contractor thereof in writing and provide the contractor with the opportunity to take measure as a result of which the damage is removed or limited. If the client fails to comply with this obligations, then each liability held by the contractor lapses.

Article 21. Force Majeure

1. A force majeure is defined in these general terms and conditions as an independent circumstance beyond the control of the contractor (even if this was foreseeable at the time the agreement was concluded) that temporarily or permanently obstructs the compliance of the agreement, as well as - if not included yet - sickness of employees, interruptions of the computer network and other stagnation in the normal course of

events within the businesses, as well as war, threat of war, civil war, riots, strikes, transport difficulties, fire and other serious disruptions in the company of the contractor or that of its suppliers.

2. In the event of the agreement not being performed as a result of a force majeure, the contractor is authorised, without legal intervention, to suspend the performance of the agreement for no more than six months or to dissolve the agreement, in full or in part, without being liable to pay any damages.
3. Both in the event of suspension and of dissolution, the contractor is authorised to demand immediate payment for the activities already performed by the contractor at the time the force majeure arose. The other party must then comply with the subsequent obligations as if they were a separate transaction.

VII. Other provisions

Article 22. Employees contractor

1. If (employees of) the contractor performs activities on location of the client, then the client will ensure a suitable work place that complies with the statutory health and safety standards and other applicable legislation with regard to employment conditions. The client must ensure that the contractor is provided with office space and the facilities that the contractor considers necessary or useful for the performance of the agreement and that are in compliance with all the (legal) requirements. With regard to (computer) facilities made available, the client is obliged to ensure its continuity by way of sufficient back-up, security and virus inspection procedures.
2. The client will not employ or approach the persons involved in the performance of the activities, temporary and otherwise, directly or indirectly, or to perform activities directly or indirectly for the client, whether or not in employment, for the duration of the agreement or any extension thereof and during the 12 months following it.

Article 23. Applicable law

All agreements, also relating to services provided to foreign parties, that are subject to these general terms and conditions are governed by Dutch law.

Article 24. Deadline

Insofar as otherwise is not stated in these general terms and conditions, the claim rights (explicitly including damage payments) and other authorities of the client on whichever basis in respect of the contractor in respect of the performance of the activities by the contractor will in any event lapse after one year as of the moment the client became aware or could reasonably have been aware of the existence of these rights and authorities. That stated in this article does not withstand the opportunity to file a complaint with the appropriate authorities to deal with the complaint.

Article 25. Disputes

All disputes relating to or resulting from the agreements of the client and the contractor subject to these terms and conditions are settled by the competent court in the district where the contractor resides. If and insofar as the professional rules and code of conduct of the relevant professional provides for a settlement of disputes, the above mentioned disputes will be settled in accordance with the dispute settlement arrangement stated in the professional rules and code of conduct if the client and the contractor agree with this.

Article 26. Repair clause

1. If any provision of these general terms and conditions or from the underlying assignment/agreement are fully or partly nullified and/or invalid and/or not enforceable as a result of any legal requirement, court judgement or otherwise, this will not affect the validity of the other provision of these general terms and conditions or the underlying assignment/agreement in any way.
2. If a provision in these general terms and conditions or the underlying assignment/agreement should be invalid for a reason stated in the preceding subsection, but would be valid were they to have a more limited scope or intent, then this provision will initially automatically apply with the most far-reaching or largest limited scope or intent in which it is valid.
3. Notwithstanding that stated in subsection 2, the parties can meet to discuss new provisions to replace the nullified or cancelled provisions. In doing so, the intent and nature of the cancelled and nullified provisions will be followed to the extent possible.

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The general terms and conditions of the contractor have been drawn up in the Dutch language and filed with the clerk of the court in The Hague under number 43/2016. In the event of interpretation differences between the Dutch general terms and conditions and the English translation thereof, then the Dutch language version is leading.

The general terms and conditions of the client will be made available for free upon request. The transcripts of the applicable professional rules or code of conduct are also available. Requests can be made with the contractor's secretary using with the contact details that the contractor uses in its publications. Our general terms and conditions and further information on our services are also listed on the website of ETL: www.etlnederland.nl