

General Terms and Conditions of Delivery Stichting Fontys

Contents

- Art 1: Definitions
- Art 2: Applicability
- Art 3: Offers, coming about and amendments of the Agreement
- Art 4: Execution of the Agreement and Delivery
- Art 5: Force majeure and dissolution of the Agreement
- Art 6: Price and Payment
- Art 7: Reservation of title clause
- Art 8: Intellectual property
- Art 9: Complaints
- Art 10: Liability
- Art 11: Secrecy
- Art 12: Prohibition of staff transfer
- Art 13: Disputes
- Art 14: Final provisions

Article 1: Definitions

In these Terms and Conditions these terms have the following definitions:

- a. Client: the natural or legal person who has placed an order for the supply of goods, services and/or work with the Supplier;
- b. Supplier: the Stichting Fontys and/or institutes affiliated to the Stichting Fontys, partnerships and the like.
- c. Terms and Conditions: these General Terms and Conditions of Delivery of the Stichting Fontys.
- d. In Writing: in these Terms and Conditions messages sent by e-mail¹ are considered to be equal to written documents. Messages sent by fax will explicitly **not** be considered as such.
- e. Electronic: electronic data traffic is defined as sending and receiving messages through the internet, with due observance of any further conditions laid down by the Stichting Fontys.
- f. Offer: the Offer In writing to the Client for the supply of a certain amount of goods, services and/or work against a certain price.
- g. Order: the assignment for the Delivery or acceptance of the Supplier's Offer by the Client. The Order will result in the Agreement, provided the acceptance was given by a person working for the Client authorised to do so.
- h. Agreement: the arrangements made between the Client and Supplier laid down In writing with respect to the Delivery of goods, services and/or work.
- i. Delivery: the bringing into the possession or under the authority of the Client respectively, of one or more goods, and/or any installation

and assembly of these goods, or the completion of the services and work, irrespective of the title.

Article 2: Applicability

- 2.1. These Terms and Conditions apply to all Offers made by the Supplier and all Agreements concluded by it, including any Agreement under which the Supplier delivers a performance to the Client.
- 2.2. These Terms and Conditions will be simultaneously supplied to the Client either with the Offer or with the draft Agreement
- 2.3. The Client's Terms and Conditions will not be applicable, unless it has been explicitly agreed otherwise, In writing.
- 2.4. Any deviations from these Terms and Conditions will only be valid if they have been explicitly agreed, In writing, between the Client and the Supplier. Any deviations from these Terms and Conditions will always require prior permission, In writing, from the Supplier's Executive Board.
- 2.5. The Dutch version of these Terms and Conditions will prevail over any translation.

Article 3: Offers, coming about and amendments of the Agreement

- 3.1. The Supplier will make its Offer in Writing. The Offer is dated and will be irrevocably during thirty (30) days after its receipt.
- 3.2. The price referred to in the Offer is fixed and expressed in euros. It is deemed to concern all costs incurred with the Delivery of goods and services at the place indicated by the Client, exclusive of VAT. These costs include expenses, taxes, excises and levies that are related, amongst other things, to production, transport, insurance, import and export.
- 3.3. The prices are based on the prices, exchange rates, salaries and taxes (cost price factors) existing at the time when the Offer was made. If there is a rise of one of the cost price factors, the Supplier will be entitled to raise the prices. The Client will then be entitled to cancel the Order.
- 3.4. The Agreement will be concluded by the Client's acceptance In Writing or Electronically of the Supplier's Offer made In writing or Electronically. If the Offer is accepted Electronically, the Supplier will send a confirmation In writing to the Client.
- 3.5. If, however, the Order is sent after the expiry of the term mentioned under 3.1 (whereby the date of the postmark is the defining date in compliance with the dispatch theory) or if deviations from the Order are not on minor

¹E-mails are explicitly defined as the electronic version and not the printed one.

These General Terms and Conditions were deposited with the Chamber of Commerce of Midden-Brabant on 27 October 2005, under number 41097718, and with the clerk of the court's office of the District Court of Breda, Department commercial law under number 54/2005.

issues only, the Agreement will have come about in accordance with the Order, unless the Client rejects the Order, In writing, within fourteen days (14) after its date.

- 3.6. If the Supplier has not submitted an Offer or made an oral Offer, the Agreement will be concluded after the Supplier's acceptance, In writing, of the Client's Order In writing, within fourteen days after its date.
- 3.7. Amendments of or additions to the Agreement can only be made In writing.

Article 4: Execution of the Agreement and Delivery

- 4.1. The term of Delivery or the time of Delivery agreed by the Client and the Supplier may never be considered as a deadline, unless the circumstances described in section 6:75 Dutch Civil Code with respect to force majeure have occurred, provided parties have not agreed explicitly otherwise. This means that in case of non-performance, the Supplier must be notified of its failure In Writing before it will be in default.
- 4.2. The goods, services and/or work are deemed to have been delivered at the moment when the Supplier has delivered them at the place designated by the Client and the Client may freely dispose of these goods, services and/or work there. In the case of the Delivery of services and/or work, the moment when the services or the work have been completed is considered to be the moment of Delivery.
- 4.3. The Supplier will guarantee that the goods, services and/or work meet the conditions laid down in the Agreement (conformity). Furthermore, the Supplier will guarantee that the goods, services and/or work have those features that, considering all circumstances, are required for normal use, including any special uses if parties have agreed such.
- 4.4. Any specification and/or statement given by the Supplier with respect to the goods, services and work it has supplied are done to the best of its knowledge, but will not be binding. Deviations and/or amendments of whatever nature or extent are therefore explicitly reserved by the Supplier.

Article 5: Force majeure and the dissolution of the Agreement

- 5.1. The dissolution of the Agreement can only take place by registered mail with confirmation of receipt.
- 5.2. If the Agreement is dissolved more than one month before the Delivery of the goods, services and/or work has begun by the Supplier, the Client must pay 25% of the agreed payment. If the Agreement is dissolved less than one month before the Delivery of the goods, services and or work has begun by the Supplier, the Client must pay 50% of the agreed payment. If the Agreement is dissolved during the Delivery of the goods, services and

or work has begun by the Supplier, the Client must pay the entire payment agreed by the parties.

- 5.3. If either the Client or the Supplier does not meet their obligations under the Agreement, the other party will send a default notice to the party in default, In writing. This notification must allow a reasonable term enabling the defaulting party to meet its obligations yet. If the defaulting party fails to meet its obligations within this term, all its rights arising from the Agreement will be cancelled and the other party will no longer be held to meet its obligations.
- 5.4. If there is a failure to perform which is not imputable (force majeure) to one of the parties, neither party will be held to meet its obligations under the Agreement.
- 5.5. Non-performance due to force majeure on the part of the Supplier includes, but not exclusively, its failure to meet its obligations as a result of a strike, exclusion, fire, storm, weather influences, faulty tools, parts or labour (such as illness) for which it cannot be blamed, transport disturbances, power failure, government measures and all causes in general that are outside the Supplier's control.
- 5.6. If the force majeure results in an exceeding of the agreed deadline for the Delivery of the goods, services and or work, and this exceeding is, considering the performance to be delivered, longer than is reasonable, both parties may dissolve the Agreement by registered mail without any court interference being required. The Client will be held to pay any of the goods, services and/or work that have already been supplied.
- 5.7. The Supplier may, without any compensation becoming due, dissolve part of or the entire Agreement with the Client by registered mail, with immediate effect, and without any court interference being required, if
 - a. the Client is declared bankrupt;
 - b. when a petition for the Client's bankruptcy has been filed;
 - c. when a petition for the Client's (temporary) suspension of payment has been granted;
 - d. a settlement was made with the Client's creditors;
 - e. the Client can no longer dispose over (a substantial part of its) assets, for example, due to its assets being subject to seizure;
 - f. the Client proceeds to cease its operations or a substantial part of it, including the winding up of its company or if its company becomes part of an other company already existing or to be established;
 - g. the decision is made to dissolve the legal person, if the Client is a legal person;
 - h. the Client renounces the rights to its estate;

- i. third parties, not being group companies or subsidiaries as referred to in sections 2:24b and 2:24a Dutch Civil Code, acquire direct or indirect control over the Client's activities;
- j. the Client fails to meet or does not fully meet some obligation arising from the law or the Agreement or acts contrary to the Agreement and/or the Terms and Conditions.

Article 6: Price and Payment

- 6.1. The price agreed is exclusive of VAT, unless agreed otherwise.
- 6.2. Unless agreed otherwise, the payment will remain unaltered for the duration of the Agreement. Any changes in the VAT rate will be passed on to the Client.
- 6.3. Unless parties have agreed a different term of payment, the Client must pay within thirty (30) days after the date of invoice, without any discount, settlement or set-off being allowed.
- 6.4. The Client will be in default solely by the expiry of the term of payment, without any summons or notice of default or court interference being required. The Client must pay a delay interest of one percent (1%) for every month or part of it for the duration of its default, all this without prejudice to the Supplier's right to demand immediate payment of the entire amount due if the payment concerns an instalment.
- 6.5. The Client must pay the legal and non-legal expenses incurred with the collection of the debt. These expenses will be at least fifteen percent (15%) of the amount to be collected, increased by VAT and statutory interest with a minimum of one hundred and fifty euros (euro 150.--).
- 6.6. Without prejudice to the Client's obligation to pay, the Supplier will reserve the right to suspend, to cease or not resume the Delivery of the goods and/or services, respectively, if the Client has not met its obligation to pay, without the Supplier being held to pay any compensation.
- 6.7. If the Client's company or institution is (under the threat to be) declared bankrupt, subjected to a suspension of payment, closes down its business or wound up, it is considered to be in default by operation of law and the Supplier may apply articles 6.4 up to and including 6.6. The Supplier will have the same rights on the Client's decease.

Article 7: Reservation of title clause

As long as the Client has not fully met its obligation to pay, the Supplier will retain the ownership rights of the things supplied. This means that the Client may not lend the things supplied to third parties, subject them to the right of pledge or transfer the ownerships rights. The Client must, at first demand, return the things

supplied to the Supplier. As long as the things supplied remain in the Supplier's ownership, the Client must ensure that they are properly insured at its expense. If the case so arises, the ownership rights will only be transferred to the Client when it has fully met its obligation to pay for the Delivery to the Supplier, including any interest and expenses.

Article 8: Intellectual property

Unless agreed otherwise, In writing, all intellectual (property) rights- including the copyright and patent right- with respect to the products, data and results, which become known or will be achieved as part of the Agreement, will remain with the Supplier. Furthermore, all intellectual (property) rights- including the copyright and patent right- with respect to the products, data and results resulting from the performance of the Agreement will be transferred by the Supplier to the Client, at the Client's demand, which transfer will be accepted by the Client on entering into the Agreement promptly on the moment when these rights arise. If a further deed is required for the transfer of these rights, the Supplier will lend its cooperation at the Client's first demand for to the transfer of these rights, without subjecting its cooperation to any further conditions. Any cost related to the establishment of certain intellectual (property) rights are at the Supplier's expense. The Client will irrevocably authorise the Supplier to have these intellectual (property) rights entered into the appropriate registers.

The Supplier will always be entitled to transfer any new knowledge and experiences to Hogescholen and institutes and the like that are affiliated to the competent Fontys authorities for the benefit of the courses offered by these institutions and the performance of market-driven tasks.

No part of the Supplier's publications or informative products may be reproduced, and/or published by way of print, photo copy, micro film, video disc, magnetic disc or tape, stored in a retrieval system accessible to third parties, or in any other way, electronically, mechanically or otherwise, without the Supplier's prior permission. In writing.

Article 9: Complaints

- 9.1. The Client can lodge a complaint with respect to directly observable faults after the termination of the Delivery of goods, services and/or work or part of it by registered mail with confirmation of receipt within fourteen (14) days
- 9.2. As long as the Supplier has not accepted the complaint, the obligation to pay remains intact.

Article 10: Liability

- 10.1. The Supplier will only be liable for direct damage that is the immediate result of a non-performance imputable to the Supplier with respect to the Delivery of goods, services

- and/or work. This contractual liability will never exceed the invoice value of the part of the Agreement from which the liability arose.
- 10.2. The Supplier will only be liable for the damage arising from the Supplier's employment of people for the Delivery of goods, services and/or work or recommendations to be given under the Agreement if there is intent and/or gross culpability on the part of people employed by the Supplier for the performance of the Delivery of the goods, services and/or work.
- 10.3. The Supplier will never hold liable a person employed by it for the performance of the Agreement.
- 10.4. The Client will indemnify the Supplier for any third party claims arising from damage suffered by these as a result of the Agreement between the Client and the Supplier, unless there is intent and/or gross culpability on the side of the Supplier.
- 10.5. With respect to any damage arising from the law, the compensation will be restricted to the insured sum as included in the Company Third Party Liability Insurance taken out by the Supplier.

Article 11: Secrecy

- 11.1. During as well as after the expiry of the Agreement, parties will be mutually held to secrecy of everything they (have) learned as a result of the Agreement and/or of which the confidential character is evident.
- 11.2. Parties will swear their staff to secrecy within the framework of the Agreement, if necessary.
- 11.3. Parties will indemnify each other for any of their staff's breaches of the pledge to secrecy.

Article 12: Prohibition of staff transfer

The Client will not employ any of the Supplier's staff members or otherwise employ them in its activities during the Agreement and a period of twenty-four (24) months after the complete or partial performance of the Agreement, on the forfeit of a penalty of fifty thousand (50,000) euros per breach, becoming immediately due, with reservation to the Supplier's entitlement to complete compensation for any excess of this amount.

Article 13: Disputes

- 13.1. All Agreements concluded by the Supplier will be governed by Dutch law.
- 13.2. Disputes that cannot be solved in mutual consultations must be brought before the competent court of the district court of Breda.

Article 14: Final provisions

- 14.1. If one or more parts of the Agreement and / or these Terms and Conditions are declared inadmissible, the remainder of the Agreement and / or the Purchase Conditions will remain fully in place.

- 14.2. No rights can be derived by the Client from the titles of these articles as they have been designed for reader's convenience only.