

General Terms and Conditions IHCM B.V.

Article 1 Definitions

1. In these general terms and conditions IHCM B.V. is hereinafter referred to as "contractor" The other party is hereinafter referred to as "client".

An "assignment" is the activities to be determined in mutual consultation between client and contractor which will be carried out by contractor, and the terms and conditions under which this must take place.

Article 2 General

1. The general terms and conditions are applicable to all tenders, offers, activities, assignments and agreements between contractor and clients, respectively their successors in title. Standard terms and conditions of the client apply exclusively if these are accepted by contractor by written confirmation.

2. The present terms and conditions are also applicable to all assignments with contractor, for the execution of which third parties must be involved.

3. If one or more of the provisions in these general terms and conditions are void or might be voided the remaining provisions of these general terms and conditions continue to be fully applicable. Contractor and client will in that case enter into consultation to agree to new provisions to replace the void or the voided provisions, in doing so the purpose and meaning of the original provision will be taken into account as much as is possible.

Article 3 Offers

1. Offers of contractor are based on the information provided by the client. The client undertakes that he has provided to the best of his knowledge all essential information, for planning, execution and completion of the assignment.

2. The offers made by contractor are without obligation. The offers are valid for 30 days, unless stated otherwise. Contractor is only bound to the offers if the acceptance thereof is confirmed by the other party in writing within 30 days, unless stated otherwise.

3. The prices in the offers mentioned are excluding VAT and other duties imposed by the authorities, as well as any costs to be incurred in the context of the assignment, including dispatch and administration costs, unless stated otherwise.

4. If the acceptance derogates (on secondary points) from the supply included in the offer, then contractor is not bound thereto. The assignment then does not come into effect in accordance with this derogating acceptance, unless contractor states otherwise.

5. A composite quote does not oblige contractor to execute part of the assignment against a corresponding part of the price given.

6. Offers do not automatically apply to future assignments.

Article 4 Making information and cooperation available

The client provides contractor in a timely manner with all documents, information and contacts necessary for the proper execution of the assignment.

Article 5 Execution of the assignment and involving third parties therein

1. Contractor executes the activities in the context of the assignment to the best of his knowledge, expertise and abilities.
2. In so far as proper execution of the assignment requires this, contractor has the right to have (parts of) the work carried out by third parties. Contractor will do this in consultation with the client.
3. Contractor undertakes to use best endeavours so that the agreed obligations and quality are achieved.
4. The contractor does not accept liability for the activities which are carried out by third parties, in so far as these have entered an agreement with client.
5. Contractor is not liable for damage, of whatsoever nature, because contractor proceeded from incorrect and / or incomplete data provided by the client, unless this incorrectness or incompleteness ought to be apparent to contractor.
6. If it has been agreed that the assignment will be executed in stages, contractor can suspend the execution of those parts that belong to the following stage until the client has approved the results of the prior stage in writing.
7. If activities are executed at the location of client or a location designated by client, by contractor or by third parties engaged by contractor, the client shall ensure free of charge the facilities reasonably desired by these employees.

Article 6 Amendment of the assignment, contract extras

1. The client accepts that the time planning of the assignment can be influenced, if the parties in the interim decided on amendment of approach, working method or extent of the assignment and the activities arising from this.
If through action by client interim amendments arise during the execution of the assignment, contractor will in consultation with the client make the necessary modifications. If this leads to contract extras, this will be charged to the client as a supplementary assignment. The contractor is entitled to charge the extra costs of the amendment of the assignment to the client.
2. In derogation from subsection 1 contractor will not be able to charge contract extras if the amendment or addition to the assignment is the result of circumstances which can be attributed to contractor.

Article 7 Duration of contract; execution time

1. The assignment between contractor and client is entered into for an indefinite time, unless it follows otherwise from the nature of the assignment or parties expressly agree in writing otherwise.
2. If within the term of the assignment a period is agreed for the completion of specified activities, then this is never a final deadline. In case of exceeding the execution time, the client must give contractor notice of default in writing.

Article 8 Rates

1. Unless parties have agreed otherwise, the rate of the contractor is set on the basis of an hourly rate.
2. Included in the rate of contractor are the costs of secretarial work and telephone costs. Travel and subsistence costs are invoiced in conformity with the arrangements in the offer. It applies to all offers that only the actual time spent is charged for and that in case of it threatening to exceed more than 5% of the offered amount, invoicing takes place after consultation with client.
3. Amounts are excluding VAT.
4. If contractor agrees an hourly rate with the client, the contractor is nevertheless entitled to increase this rate.
5. Contractor has the right -without prior written notification- to increase on the 1st of January of each calendar year the rate in the offer with no more than the inflation percentage of the previous year provided by the CSO.
6. Contractor is entitled, in case of price increase, outside inflation, to increase the prices. The client is entitled to terminate the assignment if the increase exceeds more than 10% per year. Client is not entitled to terminate if the entitlement to increase the rate results from an entitlement pursuant to the law.
7. Contractor will notify the client in writing of the intention to increase the rate on the basis of subsection 6. Contractor will thereby state the extent of, and date on which the increase will take effect.
8. If client does not want to accept the increase of the rate notified by contractor, client is entitled to cancel the assignment in writing within two weeks from the notification referred to, or as the case may be cancel from the date on which the rate adaptation would come into effect in the notification from contractor.

Article 9 Payment terms

1. Payment must take place within two weeks from the invoice date, unless the client and contractor have agreed otherwise. Objections to the level of the invoices does not suspend the payment obligation.
2. After the due date the client is in default and contractor has the right to charge the statutory interest. The interest for the amount due and payable will be calculated from the time that the client is in default until the time of satisfaction of the full amount, whereby a part of the month is viewed as the whole month. The costs of a reminder, demand and summons due to the omission of the client amount each time to € 100.00 which will be charged each time to client. These costs concern covering the administrative consequences for contractor.
3. If the payment is more than a month late, the contractor can suspend the execution of the assignment until payment has taken place.
4. In case of liquidation, insolvency, attachment or moratorium of the client, the claims of contractor against client are immediately due and payable.
5. Contractor has the right to apply the payment made by client in the first place to reduction of the costs, thereupon to reduction of the interest arrears and finally to reduction of the principal sum and the interest accrued. Contractor can, without falling into default thereby, refuse an offer of payment, if the client designates another order for the allocation. Contractor can refuse full payment of the principal sum, if the interest arrears and interest accrued as well as the costs are not also satisfied thereby.
6. In case of failure by the client to fulfil the obligations, all costs judicial as well as extrajudicial, incurred in collection will be charged to the client.

Article 10 Conclusion of assignment

The assignment is concluded in the financial sense if the settlement is approved by client. The client must report about this within a period of 30 days from invoice date. If client does not respond within this period, the settlement will be deemed to have been approved.

All matters delivered to client continue in the ownership of contractor, until these have been paid for by client.

Article 11 Retention of title

1. All matters delivered by contractor, also including any designs, sketches, drawings, films, software, (electronic) files, etc. continue in the ownership of contractor until the client has fulfilled all obligations following from the assignments entered into with contractor.
2. The client is not entitled to pledge the matters subject to the retention of title, nor in any other manner encumber.
3. If third parties charge the matters delivered subject to retention of title, or as the case may be want to vest rights thereto or have rights applied thereto, client is obliged to inform contractor thereof as soon as can reasonably be expected.
4. The client is obliged to insure the matters delivered subject to retention of title against fire, explosion and water damage as well as theft and to provide the policy of this insurance for inspection at first request.
5. Matters delivered by contractor, which pursuant to the provisions of 1. of this article are subject to retention of title, may only be sold on in the context of usual business operations, and may never be used as a means of payment.
6. In the case that contractor wants to exercise his ownership rights mentioned in this article, the client hereby already gives unconditional and irrevocable permission to contractor or to third parties to be appointed by contractor, to enter all locations where the properties of contractor are and also to take these matters away.

Article 12 Inspection, reclamations and complaints

1. Complaints about the activities carried out must be notified in writing by the client to contractor within two weeks from the invoice date, but no later than three weeks from completion of the activities concerned. The notice of default must contain a description as detailed as possible of the shortcomings, so that contractor is able to respond adequately.
2. If a complaint is well founded, contractor will at a later date carry out the activities, unless this has already become provably meaningless for the client. The latter must be made apparent in writing by the client.
3. If the carrying out at a later date of the agreed activities is no longer possible or meaningful, contractor will only be liable within the scope of article 16.

Article 13 cancellation

1. Both parties can unilaterally cancel the contract at any time.
2. Premature cancellation must be reasoned and confirmed in writing.
3. In case of premature cancellation by client, contractor has right to compensation of the work offered, whereby the up to then average monthly claim is the starting amount. The provisional results of the activities carried out up to then will be made available without prejudice to client.
4. In case of premature cancellation by client, contractor will if requested, and in consultation with client, ensure the transfer of activities still to be carried out to third parties.
5. If the transfer of the activities brings extra costs for contractor, these will be charged to client.

Article 14 Suspension and termination

1. Contractor is entitled to suspend the fulfilment of the obligations or to terminate the contract, if:
 - Client does not, or not fully, fulfil the obligations under the contract.
 - After entering into the assignment contractor acquires knowledge which gives good grounds to fear that the client will not fulfil the obligations. In case good grounds exist to fear that the client will only partly or not properly fulfil, the suspension is only permitted in so far as the shortcoming justifies this.
 - Client at the entering into of the assignment has been requested to give security for the satisfaction of his obligations under the assignment and this security is not forthcoming or insufficient.
2. Furthermore, contractor is entitled to terminate (have terminated) the assignment if circumstances occur which are of such a nature that fulfilment of the assignment becomes impossible or according to criteria of reasonableness and fairness can no longer be expected, or as the case may be in other respects circumstances occur which are of such a nature that un-amended maintenance of the assignment cannot reasonably be expected.
3. If the assignment is terminated the claims of contractor against the client are immediately due and payable. If contractor suspends the fulfilment of the obligations, he retains his claims under the law and assignment.
4. Contractor always retains the right to claim compensation.

Article 15 Return of matters made available

1. If contractor in execution of the assignment has made matters available to client, client is bound to return the delivered matters at his request within fourteen days, in their original condition, free of defects and complete. If the client does not fulfil this obligation, all costs flowing therefrom will be on his account.
2. If client, for whatsoever reason, after a demand to that effect, at a later date continues in default of the obligations mentioned under 1, contractor has the right to recover from client the damage and costs flowing therefrom, including the costs of replacement.

Article 16 Liability

1. An obligation to employ best endeavours applies to every assignment accepted by contractor. Contractor can never be held liable for results not achieved. Contractor is solely liable for shortcomings in the execution of the assignment which are the result of carelessness and lack of expertise in the provision of advice and the carrying out of assignments.
2. If contractor is liable for solely direct damage, then this liability is limited to no more than the claim amount. Liability is at all times limited to no more than the amount of the payment to be provided by the underwriter of contractor in the case concerned.
3. In derogation from the provisions of 2. of this article, in case of an assignment with a longer term than six months, the liability is further limited to the honorarium part owed over the last six months.
4. In no event can a claim be made for compensation of damage caused by loss of income of client (arisen in whatsoever manner) or for indirect damage and resulting damage.
5. Client can rely on a shortcoming in the execution of the assignment if this is made apparent in writing by client within three months from the completion of the assignment.

Article 17 Indemnities

1. Client indemnifies contractor for claims by third parties with regard to intellectual property rights to the materials or data provided by the client, which are used in the execution of the assignment.
2. If client provides data carriers, electronic files or software etc. to contractor, client guarantees that the data carriers, electronic files or software are free of viruses and defects.

Article 18 Risk transfer

1. The risk of loss of, or damage to, the matters that are subject of the assignment, transfers to client at the time on which these are by law and/or actually delivered to client, and therewith are brought under the control of client or a third party to be appointed by client.

Article 19 Force majeure

1. Parties are not bound to the fulfilment of any obligation, if they are hindered thereto as result of a circumstance not attributable to fault, nor in accordance with the law, a legal act or according to generally accepted standards are on their account.
2. Force majeure in these general terms and conditions include in addition to that which is included as to that in the law and jurisprudence, all external causes, foreseen or unforeseen, over which contractor cannot exercise influence, but through which contractor is unable to fulfil the obligations. Included therein are industrial actions in the contractor's business, illness and/or incapacity to work.
3. Contractor also has the right to rely on force majeure, if the circumstance which prevents (further) fulfilment, commences after contractor ought to have fulfilled his obligations.
4. Parties can during the period that the force majeure continues, suspend the obligations under the assignment. If this period lasts longer than two months each of the parties is entitled to terminate the assignment, without obligation to compensation of damage to the other party.
5. In so far as contractor at the time of the occurrence of force majeure has in the interim partly fulfilled his obligations under the assignment, or could have fulfilled these, and the fulfilled, respectively to be fulfilled, part has an independent value, contractor is entitled to separately claim for the already fulfilled, respectively to be fulfilled, part. Client is bound to fulfil this claim as if it were a separate assignment.

Article 20 Non-disclosure

1. Both parties are obliged to non-disclosure of all confidential information which they acquire from each other in the context of their assignment or from another source. Information is confidential if this has been notified by the other party or if this follows from the nature of the information.
2. If, on the basis of a statutory provision or a judicial decision, contractor is bound to provide confidential information to third parties appointed under the law or by the court with competent jurisdiction, and contractor cannot rely in this respect on a statutory or judicially acknowledged or permitted right to refuse to give evidence, then contractor is not bound to compensation or reimbursement and the other party is not entitled to termination of the assignment on basis of any damage, arisen hereby.

Article 21 Intellectual property and copyright

1. Without prejudice to the other provisions in these general terms and conditions contractor retains the rights and entitlements vested in contractor on the basis of the Copyright Act.
2. Models, methodologies and tools that are developed and/or adapted by contractor for the execution of the assignment, are and remain the property of contractor. Publication or other forms of disclosure can only take place after written permission from contractor has been acquired.
3. All documents provided by contractor, such as reports, advice, assignments, design, sketches, drawings, software etc. for the benefit of the client, are to be used by client and are to be multiplied by client for own use in own organisation. All documents provided by contractor may not, without prior permission from contractor, be made public by client, or brought to the knowledge of third parties, unless it follows otherwise from the nature of the documents provided.
4. Contractor retains the right to use the knowledge gained in the execution of the activities for other purposes, in so far as herewith no confidential information is brought to the knowledge of third parties.

Article 22 Other

During the assignment and until two years after termination of an assignment, the client is not permitted to offer paid work (whether or not on basis of employment) to professionals who were involved in the execution on behalf of or from contractor. Breach of this rule incurs a financial penalty of € 100,000.00 in words: one hundred thousand Euros.

Article 23 Disputes

1. In case of disputes, arising from this agreement, or from agreements following therefrom, parties will seek at first instance to resolve these with the assistance from Mediation in conformity with the regulations to that effect of the Stichting Nederlands Mediation Instituut in Rotterdam, as these apply on the commencement date of the Mediation.
2. If it appears impossible to resolve the dispute with the assistance of Mediation as referred to before, the dispute will be settled by the court with competent jurisdiction.

Article 24 Applicable law

The law of the Netherlands is applicable to each assignment between contractor and the client; also if client is resident or established abroad.