

General Terms and conditions – WeSquare B.V.

Article 1. General

1. These conditions are applicable to any tender offer and agreement between WeSquare, hereinafter referred to as "User", and a Client to which the User has stated these conditions apply, if these parties have not changed these conditions, expressly and in writing
2. These conditions also apply to agreements with user, for which the user needs to involve third parties for the implementation.
3. These conditions are also written for the employees of User and its management.
4. The applicability of any purchase or other conditions of the Client are explicitly rejected.
5. If one or more provisions of these conditions have at any time wholly or partially been declared invalid or void, the remaining terms and conditions still apply in full. User and the Client will enter into dialogue to develop new rules to replace the invalid or void provisions, observing as much as possible the purpose and intent of the original provisions.
6. If uncertainty exists regarding the interpretation of one or more provisions of the general terms and conditions, then the explanation must be found "in the spirit" of these provisions.
7. If a conflict occurs between parties that is not regulated in these provisions, this situation should be assessed in the spirit of these terms and conditions.
8. If User does not always wants strict compliance with these conditions, this does not mean that its provisions do not apply, or that user would to any degree lose the right to otherwise demand strict compliance with the provisions of these terms and conditions.

Article 2. Offers and tenders

1. All offers and tenders of User are free of obligation, unless the offer contains a deadline for acceptance. In case no period of acceptance is prescribed, no rights can in any way be derived from the offer or tender in case the product to which the offer or tender applies is no longer available.
2. User cannot be held to his offers or tenders in case the Client in reason can understand that the offers and tenders, or any part thereof, contains an obvious mistake or spelling error.
3. The prices mentioned in an offer or tender are excluding VAT and other government taxes, possible costs made with regard to the agreement, including travel and accommodation, shipping and administration, unless otherwise indicated.
4. If the acceptance (whether or not to subordinate items) differs from offer made in the tender then User is not bound by this. The agreement will come about not in accordance with said deviating acceptance, unless user indicates otherwise.
5. A compound quotation shall not oblige User to execute part of the assignment against a corresponding part of the price. Offers do not automatically apply to future orders.

Article 3. Duration of the Contract, timetable, risk transfer, implementation and modification agreement; price increase

1. The agreement between User and the Client is for an indefinite period, unless the nature of the agreement dictates otherwise or if the parties expressly agree otherwise in writing.

2. If for the performance of certain work or the supply of certain items a period has been agreed or specified, this is never a deadline. When a term is exceeded, the Client needs to hold the user liable in writing. User must offer a reasonable period of time to implement the agreement.
3. User shall execute the contract to the best of ability and insight in accordance with the requirements of good craftsmanship. This based on the current state of the science.
4. User has the right to have certain work done by third parties. The applicability of article 7:404, 7:407 paragraph 2 and 7:409 BW is expressly excluded.
5. If user or third parties engaged by user within the context of the assignment do work at the location of the Client or a location designated by the Client, the Client takes care, free of charge, of the facilities wanted in reasonability by the employees.
6. Delivery takes place from company user. The Client is obliged to take the items at the time that they are made available to him. If the client refuses or fails to provide information or instructions necessary for the delivery, then User has the right to store the items at the expense and risk of the Client. The risk of loss, damage or loss of value is transferred to the Client at the moment things are available to the client.
7. User has the right to implement the agreement in several phases and thus send invoices for the implemented parts separately.
8. If the agreement is implemented in phases User can move the implementation of those parts to a next stage until the client has approved the results of the preceding stage in writing.
9. The Client will ensure that all information which User has said to be necessary or which the Client reasonably understands to be necessary for the execution of the agreement will be timely provided to User. If for the implementation of the contract the necessary information has not been provided timely to User, User has the right to suspend the implementation of the agreement and/or charge additional costs resulting from the delay by the then customary rates to the Client. Implementation shall not commence until after the Client has made the information available to User. User shall not be liable for damages of any kind, because User used the false or incomplete information provided by the Client.
10. If during the implementation of the agreement it shows that for a proper implementation it is necessary to amend or supplement the agreement, then parties will mutually and timely agree to amend the agreement. If the nature, scope or content of the agreement, whether or not requested or appointed by the Client, the competent authorities et cetera, is amended and the agreement would be qualitatively and / or quantity changed, this may have consequences for what was originally agreed. Due to this the amount originally agreed can be increased or decreased. User will put as much as possible in a quotation beforehand. By amending the agreement the initial period of implementing may also be changed. The Client accepts the possibility of amending the agreement, including the change in price and time of implementation.
11. If the agreement is amended, including additions, User is authorized to implement it only after appropriate agreement has been given by the competent person within User and the Client has agreed with the price and other conditions of the implementation, including the then to be determined time on which the implementation will take place. Failure or delay of implementation of the amended agreement does not make the User be in default and the Client has no ground to terminate or cancel the agreement.
12. Without being in default, User may request to amend the contract, if this could have qualitatively and / or quantitatively consequences, for example, in that context to work or items to be delivered.
13. If the Client should be in default in the proper performance of that to which he is held towards User, then the Client is liable for all damages on the part of User that occur directly or indirectly.
14. If User agrees on a fixed fee or fixed price with the client, then User is nevertheless always entitled to increase this fee or price without the Client in this case being entitled to terminate the contract for that reason, in case the increase of the price results from a power or duty under the law, regulation or finds its cause in an increase in the price of raw materials, wages, etc., or on other grounds that were not in reason foreseeable at the conclusion of the agreement.

15. In case the price increase is other than as a result of an amendment to the agreement exceeds 10% and occurs within three months after the conclusion of the agreement, then only the Client can appeal due to Title 5 Section 3 of Book 6 BW entitled to terminate the agreement by written notice, unless User
 - is still willing to implement the agreement based on the originally agreed;
 - If the price increase results from a power or a user's obligation under the law;
 - It is stipulated that the delivery will take place longer than three months after the conclusion of the agreement;
 - Or, in the delivery of an item, if it is stipulated that the delivery will take place longer than three months after the purchase.

Article 4. Suspension, dissolution and termination of the contract

1. User, is entitled to suspend the fulfilment of the obligations or terminate the agreement if the Client does not meet the obligations from the agreement, not fully or timely, after concluding the contract User learns of circumstances giving good ground to fear that the client shall not fulfil the obligations, if the client at the conclusion of the agreement was requested to provide security for the fulfilment of his obligations under the agreement and this security is insufficient or if the delay on the part of the Client then User can no longer be expected to fulfil the contract at the originally agreed conditions.
2. Furthermore, User is entitled to terminate the agreement if circumstances arise of such nature that fulfilment of the contract is impossible or if other circumstances arise of such nature that the unaltered maintenance of the agreement cannot reasonably be expected from User.
3. If the agreement is dissolved, the user's claims against the Client are immediately due and payable. If User suspends the fulfilment of the obligations, he retains his rights under the law and agreement.
4. If User suspends or dissolves, he is in no way be liable for payment of damages and costs that might occur in any way.
5. If the dissolution is attributable to the Client, User is entitled to compensation for damages, including costs, directly and indirectly.
6. If the Client fails to comply with obligations arising from the agreement, and this failure justifies dissolution, then User shall be entitled immediately and with immediate effect to cancel without any obligation to pay any damages or compensation, while the Client, pursuant of default, is liable for damages or compensation.
7. If the User terminates the agreement, the User will in consultation with the Client, arrange for transfer of additional work to third parties. Unless the termination is attributable to the Client. If the transfer of work brings with it additional costs for the User, they will be charged to the Client. The Client shall pay such costs within the period mentioned, unless user indicates otherwise.
8. In the event of liquidation, (application) for suspension of payments or bankruptcy, of seizure -- if and where the seizure has not been revoked within three months -- against the Client, of refinancing of debt or other circumstance that the client can no longer freely dispose of his assets, the User is free to directly and with immediate effect cancel the order or agreement, without any obligation to pay any damages or compensation. The user's claims against the client are in that case immediately due and payable.
9. If the Client cancels a placed order wholly or partially, then the work performed and the appropriate ordered or ready-made things, plus the potential drain and delivery costs and the implementation of the reserved time, will be charged integral to the Client.

Article 5. Force Majeure

1. User is not obliged to perform any obligation to the Client if he is being hampered due to a circumstance that is not due to negligence, nor by virtue of law, a legal act or generally accepted standards.

2. Force majeure in these terms and conditions means, apart from what is stated in the law and jurisprudence, all external causes, foreseen or unforeseen, which user cannot influence but which prevents user from his obligations. Strikes in the company of User or third parties included. User also has the right to invoke force majeure if the circumstance rendering (further) performance of the contract occurs after the user should have fulfilled its commitment.
3. User can during the period of force majeure suspend the obligations under the agreement. If this period lasts longer than two months, then each party is entitled to terminate the agreement without any obligation to pay damages to the other party.
4. Insofar user at the time of the force majeure has partly fulfilled or will fulfil its obligations under the Agreement, and the fulfilled or to be fulfilled part has independent value, User is entitled to separately bill the fulfilled or to be fulfilled part. The Client shall pay such invoice as if it were a separate agreement.

Article 6. Payment and collection costs

1. Payment must always happen within 30 days after the invoice date, by a user given way, in the currency of the invoice, unless otherwise indicated by User. User is entitled to periodic billing.
2. If the Client defaults in the timely payment of an invoice, then the client is legally in default. The client shall owe an interest of 1% per month, unless the statutory interest is higher, in which case the statutory interest is owed. The interest on the due amount will be calculated from the time the Client is in default until the moment of payment of the full amount owed.
3. User has the right to tend the payments made by Client in the first place to reduce the costs, then deducting the interest and finally to reduce the principal and accrued interest. User can, without being in default, refuse an offer of payment if the client point out a different order for the allocation of the payment. User can refuse full payment of principal, if the accrued interest and collection costs are not fulfilled.
4. The client is never entitled to set-off by the owed to User. Objections to the amount of a bill do not suspend the payment obligation. The Client who cannot appeal to Section 6.5.3 (the articles 231 and 247 of Book 6 BW) is not entitled to suspend payment of an invoice for any other reason.
5. If the client is in default or omission of the (timely) fulfilment of its obligations, all reasonable costs incurred in obtaining satisfaction out of court are on behalf of the Client. The extra costs are based on what is normal under the Dutch collection practice, currently under the calculation method II report. If user has made higher costs for collection which were in reason necessary, the actual costs for reimbursement will be maintained. Any judicial and execution costs will also be recovered from the client. The Client also owes any interest on the collection costs.

Article 7. Retention

1. By the user supplied property under the agreement remains the property of the User until the client has properly fulfilled all obligations under the agreement(s) with user if applicable.
2. The supplied by the user that, under paragraph 1. falls under the retention may not be resold and must never be used as payment. The Client is not entitled to pledge or otherwise encumber that which belongs to the retention.
3. The Client must always do what can be reasonably expected to secure the property rights of User. If third parties seize the goods delivered under retention or rights to establish or exercise, the Client is obliged to immediately notify User. The Client is also required to ensure the property to be delivered and keep insured against fire, explosion and water damage as well as theft and the policy of this insurance must be given on first request to user for inspection. With any payment of the insurance User is entitled to these amounts. Insofar as necessary, the Client will cooperate with User with all that might prove to be necessary or desirable in that framework.
4. In case User wishes to exercise in this article designated property rights, the Client will in advance give unconditional and irrevocable consent to User and by User designated third parties to enter all sites and locations where user's property is located and to take them back.

Article 8. Guarantees, research and advertising, term of limitation

1. The items to be delivered by user meet the usual requirements and standards that at the time of delivery could be made reasonably and which they with normal use in the Netherlands are meant for. The guarantee mentioned in this article applies to matters that are intended for use within the Netherlands. When outside the Netherlands, the client itself is to verify that its use is suitable for use there and meet the conditions there are made. User may then set other guarantees and other conditions in respect of the supply business or activity to be undertaken.
2. In paragraph 1 of this article mentioned guarantee is valid for a period of 2 months after delivery, unless the nature of the provided or parties agree otherwise. If the guarantee given by User contains an item, which was produced by a third party, then the guarantee is limited to those provided by the producer of the item, unless otherwise indicated.
3. Any kind of guarantee will lapse if a defect is caused by or resulting from improper or inappropriate use or use after the expiry date, improper storage or maintenance by the Client and / or third parties when, without written permission from User, the Client or third parties have made changes to the item or have tried to make changes which should not be attached to that or if they were processed or modified other than as prescribed. The Client is not entitled to warranty if the defect is caused by or arising from circumstances which User has no control over, including weather conditions (such as but not limited to, extreme temperatures or rainfall), et cetera.
4. The Client is obliged to investigate the item or have it investigated immediately after the moment that items are made available and the relevant activities are carried out. The client is supposed to examine the quality and / or quantity of the delivered whether it corresponds with what was agreed and meets the requirements where to the parties have agreed. Any visible defects should be reported to user in writing within seven days after delivery. Any defects that are not visible immediately, but in any event within fourteen days after discovery be reported in writing to User. The report should contain a detailed description of the defect, so that user is able to respond adequately. The Client must enable User to investigate the complaint.
5. If the client complains in time, this does not suspend his payment obligation. The Client remains in that case also required to accept and pay for the ordered items and what he has ordered user to make.
6. If a defect is reported too late, then the Customer has no right to repair, replacement or compensation.
7. If it is determined that an item is default and timely mentioned, then user will give written notification of the default item within a reasonable time after the return receipt or, if return is not reasonably possible, arrange for replacement or restoration or replacement fee to the Client. In case of replacement, the Client shall be obliged to return the item to the User to return the ownership of it to User, unless user indicates otherwise.
8. If it transpires that a complaint is unfounded, then the costs it incurred, including research costs, on the side of User are for the account of the Client.
9. After the warranty period, all costs for repair or replacement, including administration and shipping costs will be charged to the client.
10. Notwithstanding the statutory limitation periods, the limitation of all claims and defences against User and by the User in the implementation of an agreement is one year.

Article 9. Liability

1. If User is liable, this liability is limited to this provision.
2. User is not liable for damage of whatever nature, created by User assuming by or on behalf of the client provided false or incomplete information.

3. If user is liable for any damage, liability of User is limited to twice the invoice value of the order, at least for that part of the order to which the liability relates.
4. User's liability is always limited to the amount of the benefit of its insurer, as appropriate.
5. User is solely responsible for direct damage.
6. Direct damage only includes the reasonable costs of determining the cause and extent of the damage, where the determination relates to damage under these conditions, any reasonable expenses incurred to answer the poor performance of the User to the agreement, as far as these can be attributed to User and reasonable costs incurred to prevent or minimize damage, if the Client demonstrates that said costs have led to the limitation of direct damage under these conditions. User is never liable for indirect damages, including consequential damages, lost profits, lost savings and damage due to business stagnation.
7. Limitations of liability do not apply if the damage is due to intent or gross negligence of User or his senior subordinates.

Article 10. Safeguard

1. The Client safeguards the User from any claims by third parties who suffer damage in connection with the implementation of the agreement and which cause can be attributed to others than the User. If the User should be addressed in that matter by third parties, then the Client will assist the User and immediately do what might be reasonably expected of in such a case. Should the Client fail to take adequate measures, then User is, without default, entitled to do so himself. All costs and damages incurred by the User and/or third parties, that may arise are for the account and risk of the Client.

Article 11. Intellectual Property

1. User reserves the rights and powers to which he is entitled under the Copyright and other intellectual laws and regulations. User has the right to use gained knowledge on his side with the execution of an agreement for other purposes, provided that no confidential information is provided to third parties.

Article 12. Applicable law and disputes

1. All legal relationships where User is a party, only Dutch law applies even if a contract is to be implemented wholly or partly abroad or if the legal relationship with the party concerned is domiciled there. The applicability of the CISG is excluded.
2. The judge in the location of User shall have exclusive jurisdiction to hear disputes, unless the law requires otherwise. User shall nevertheless be entitled to submit the dispute to the competent judge according to law.
3. The parties will first appeal to the courts after they have tried their utmost to solve a dispute by mutual consultations.

Article 13. Location and changes terms and conditions

1. These conditions are registered with the Chamber of Commerce Gooi---, Eem---and Flevoland.
2. Applicable is the last registered version or the version valid at the time of conclusion of the legal relationship with User.
3. The Dutch text of the general terms and conditions is the determining factor for their interpretation.