

General Terms & Conditions MARNEX BV



Article 1. Definitions

1. Contractor: Marnex B.V., registered with the Chamber of Commerce under number 86495445.
2. Client: the natural or legal person on whose behalf services are provided and/or work is carried out and/or goods are delivered.
3. Agreement: the agreement concluded between the Contractor and the Client regarding the provision of services and/or the performance of work and/or delivery of goods.

Article 2. General

1. The Agreement is formed by the present general terms and conditions jointly with the assignment location signed by the Client and the Contractor.
2. These general terms and conditions apply to every offer, quotation, and Agreement between the Contractor and the Client, insofar as the parties have not explicitly deviated from these terms and conditions.
3. The applicability of any purchase and/or other conditions of the Client is expressly rejected.
4. If one or more provisions of these general terms and conditions are at any time annulled or declared null and void by the court in whole or in part, this does not affect the effectiveness of the other provisions.

Article 3. Offers and offers

1. All quotations and offers of the Contractor are without obligation unless a period for acceptance has been set in the quotation or offer. If no acceptance period has been set, no right can be derived from the quotation or offer in any way.
2. Quotations from the Contractor are based on the information provided by the Client. The Client guarantees that he/she has provided all essential information for the design, execution and completion of the assignment to the Contractor in a timely and truthful manner.
3. The Contractor cannot be held to a quotation or offer if the Client can reasonably understand that (a part of) the quotation and offer contains an obvious mistake or error.
4. A composite quotation and offer do not oblige the Contractor to perform part of the quotation and offer against a corresponding part of the specified price.
5. Quotations and offers do not automatically apply to future orders.

Article 4. Prices

1. All prices are in euros, excluding VAT and other government levies as well as any costs to be incurred in the context of the Agreement such as travel and other (im)costs, including but not limited to invoices from the persons engaged. The aforementioned costs will be borne by the Client.
2. If the Contractor agrees a fixed price with the Client, the Contractor is entitled to increase this price, without the Client being entitled to dissolve the Agreement for that reason, if the increase in the price results from a power or obligation under the law or regulations or finds its cause in an increase in cost-determining factors such as the price of raw materials, wages etc. or on other grounds that were not reasonably foreseeable when entering into the agreement.
3. If the price increase other than as a result of a change to the Agreement exceeds 10%, the Client has the right to cancel the Agreement, provided that this is done in writing within 14 days after receipt of the adjusted price, unless the Contractor is still willing to execute the Agreement on the basis of the originally agreed, the price increase results from a power or an obligation resting on the Contractor under the law or if it has been stipulated that the delivery will take place more than three months after the Agreement.
4. A cancellation as stated in the previous paragraph does not entitle the Client to compensation for any damage. In the event that the Client cancels the Agreement, the Contractor is entitled to charge him/her already incurred costs to the Client.

Article 5. Agreement

1. The Agreement is deemed to have been concluded from the date of signature by the Contractor, respectively the day of sending the written order confirmation by the Contractor to the Client.
2. The Agreement is entered into for an indefinite period of time, unless it follows from the content, nature or purport of the Agreement that it has been entered into for a definite period of time.

Article 6. Execution of the Agreement

1. The Contractor shall observe the care of a good Contractor in the performance of its work.
2. The Contractor assumes a best efforts obligation with the Agreement and therefore gives no guarantee about the results of the assignment unless explicitly stated otherwise.
3. The Contractor has the right, insofar as this is required for the proper execution of the Agreement, to have the Agreement partially executed by third parties. The Contractor will only do this after consultation with the Client.
4. The applicability of Articles 7:404, 7:407, paragraph 2, and 7:409 of the Dutch Civil Code is expressly excluded.
5. If a term has been agreed upon within the term of the assignment for the completion of certain activities, this is never a deadline for the Contractor. If the execution period is exceeded, the Client must give the Contractor written notice of default.

Article 7. Change to the command

1. Changes to the Agreement by the Client that could not be foreseen by the Contractor and cause additional work will be charged by the Contractor to the Client in accordance with the rate agreed in the Agreement. There is also talk of additional work if, as a result of the provision of incorrect or incomplete information by the Client, the Contractor has to reorganize the planned work. The Contractor is entitled to charge the costs for additional work on the basis of subsequent calculations to the Client.
2. Changes in the execution of the Agreement still required by the Client after the assignment has been issued must have been notified to the Contractor by the Client in a timely manner and in writing. A change in or addition to the Agreement only applies if it has been accepted by both the Contractor and the Client (preferably in writing).
3. Changes made to an order that has already been issued may result in the contractor exceeding the originally agreed delivery time.

Article 8. Cooperation with the Client

1. The Client will always, solicited and unsolicited, provide the Contractor with all relevant information that he/she needs for the correct execution of the assignment given to him/her.
2. If necessary information for the execution of the agreed assignment has not been made available by the Client, not in time or not in accordance with the agreements made, or if the Client has not fulfilled his /her (information) obligations in another way, the Contractor is entitled to suspend the execution of the Agreement.
3. In order for the execution of the assignment to proceed properly and as much as possible according to the timetable, the Client will make employees of his / her own organization available in a timely manner, unless the nature of the assignment dictates otherwise. The Client must ensure that his/her staff has the right skills and experience to be able to perform the work.
4. If and insofar as the Contractor so requests, the Client will provide the Contractor with its own workspace with a telephone connection and, if desired, a fax and/or data network connection at its/her location free of charge, unless the nature of the assignment dictates otherwise.
5. If, as a result of the non-provision, late or improper provision of personnel, requested information, documents, and facilities by the Client, additional costs arise for the Contractor, these costs will be borne by the Client.

Article 9. Delivery or delivery

1. The Client is obliged to take delivery of the goods at the moment that they are made available to him/ her. If the Client refuses to take delivery or is negligent in providing information or instructions that are necessary for the delivery, the Contractor is entitled to store the goods at the expense and risk of the Client.
2. The Contractor is entitled to execute the Agreement in different phases and to invoice the part thus executed separately.
3. The Client is obliged to examine the delivered goods (or have them examined) immediately after the goods have been made available to him/her.
4. The risk of loss, damage, or depreciation is transferred to the Client at the moment when goods are delivered to the Client or third parties engaged by it/ him.

Article 10. Retention

1. All goods delivered by the Contractor remain the property of the Contractor until the Client has fulfilled his /her (payment) obligations towards the Contractor.
2. Items that fall under the retention of title may not be resold and may not be used as a means of payment. The Client is also not authorized to pledge or encumber in any other way the goods subject to the retention of title.

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Article 11. Termination

1. Both parties may terminate the Agreement prematurely in writing at any time with due observance of a notice period of 30 days unless the parties have agreed otherwise.
2. If the Client has proceeded to premature termination, the Contractor is entitled to compensation because of the resulting and plausible loss of occupancy, whereby the hitherto average monthly invoice amount is used as a starting point, unless there are facts and circumstances underlying the termination that can be attributed to the Contractor. The provisional results of the work performed up to that point will be made available to the Client subject to reservation.
3. In the event that one of the parties becomes bankrupt, applies for suspension of payment or ceases business operations, the other party has the right to terminate the Agreement prematurely without observing a notice period.
4. In the event of premature termination by Contractor, the Client is entitled to the contractor's cooperation with regard to the transfer of work still to be performed to third parties. If the transfer of the work entails additional costs for the Contractor, these will be charged to the Client.

Article 12. Power of dissolution and/or suspension

1. The Contractor is entitled to suspend the fulfillment of its obligations or to dissolve the Agreement if:
 - a. The Client does not, not fully or not timely fulfill the obligations under the Agreement or the Contractor has good reason to fear that the Client will fail in those obligations.
 - b. At the conclusion of the Agreement, the Client was requested to provide security for the fulfillment of his/her obligations under the Agreement, and this security is not provided or is insufficient.
 - c. there is (an application for) liquidation of the Client, suspension of payment has been granted to the Client, the Client has been declared bankrupt, the Debt Rescheduling Natural Persons Act has been declared applicable to the Client or under the guardianship of the Client, the Client the free disposal of his / her assets or income in whole or g the Client sells his/her company or if the Client is seized at the expense of the Client and this attachment has not been lifted within 3 months.
2. The Contractor is also entitled to dissolve the Agreement if disputes arise of such a nature that compliance with the Agreement is impossible or if circumstances otherwise arise that are of such a nature that unaltered maintenance of the Agreement cannot reasonably be required of Contractor.
3. If the Contractor proceeds to suspension or dissolution, it is in no way obliged to compensate damage or costs incurred in any way as a result.
4. If the Contractor proceeds to dissolve the Agreement, the Contractor's claims against the Client are immediately due and payable.
5. If the dissolution is attributable to the Client or the Contractor must suspend the execution of the Agreement as stated in this article and/or under Article 8.2 of these general terms and conditions, the Client is obliged to compensate the Contractor for the direct and indirect damage and costs caused as a result.
6. The Contractor may at any time demand further security, failing which the Contractor may suspend the execution of the Agreement. If this request is not complied with to the Contractor's satisfaction, the Contractor is entitled to suspend or refuse the execution of all Agreements with the Client, without being obliged to pay any compensation and without even waiving his / her other rights under this Agreement or the law.

Article 13. Payment terms

1. Payment shall be made within 21 days of the invoice date in a manner to be indicated by the Contractor in euros unless expressly agreed otherwise.
2. If the Client fails to pay on time, he/she is in default by operation of law and the Client owes the statutory (commercial) interest. The caretaker then owes interest on each month, or part of the month, whereby part of the month is considered to be the entire month. The interest on the due amount will be calculated from the moment that the Client is in default until the moment of payment of the full amount due.
3. From the moment that the Client is in default, the Client is also obliged to reimburse all (extra)judicial costs and execution costs related to the collection of the invoiced amounts. The extrajudicial costs are set at 15% of the principal sum, with a minimum of € 40.00 excluding VAT, unless the law provides otherwise.
4. Payments are primarily intended to reduce the costs, then to deduct from the interest shown, and finally to reduce the principal and the current interest.
5. The Contractor may, without thereby being in default, refuse an offer for payment if the Client designates a different order for the allocation of the payment. The Contractor may refuse full repayment of the principal sum if the outstanding and current interest and collection costs are not also paid.
6. Complaints regarding the amount of the invoice must be submitted in writing within 8 days of the invoice date. After that period, complaints will no longer be processed, and the right to complaints for the Client will lapse. The Client is never entitled to set off the amount owed by it/him to the Contractor.

Article 14. Advertising and research

1. If the Client does not complain to the Contractor in writing within 8 days after he /she has discovered or should have discovered a defect in the Performance of the Contractor, the Client can no longer appeal to this defect.
2. The Client has no right to suspend his/her (payment) obligations if the Client believes that he has any right to complain.
3. The Client must give the Contractor the opportunity to investigate a complaint or have it investigated.
4. In the event of well-founded and timely complaints, the Contractor shall, at its discretion, either repair or replace the delivered goods against the return of the originally delivered goods, or pay a replacement fee for this to the Client or credit an equivalent part of the invoice.
5. If it is established that a complaint is unfounded, the costs incurred by the Contractor in this respect will be fully borne by the Client.

Article 15. Force majeure

1. If the Contractor is unable to fulfill his/her obligations under the Agreement, not in a timely manner or not properly as a result of a cause not attributable to him/her, those obligations will be suspended until the moment that the Contractor is still able to fulfill them in the agreed manner. Force majeure is, in any case, understood to mean illness on the part of the Contractor.
2. If the period in which fulfillment of the Contractor's obligations is not possible due to force majeure lasts longer than two months, the parties are entitled to dissolve the Agreement without any right of the Client to compensation for damages. What has already been performed pursuant to the Agreement will then be settled proportionately.

Article 16. Liability

1. The Contractor is not liable for damage, of whatever nature, caused by the Contractor relying on incorrect and/or incomplete information provided by or on behalf of the Client.
2. If the Contractor should be liable for any damage, the Contractor's liability is limited to a maximum of the invoice amount, at least to that part of the amount to which the liability relates.
3. The Contractor's liability is, in any case, always limited to the amount of the payment of his / her insurer in any case.
4. The Contractor is only liable for direct damage.
5. Direct damage is exclusively understood to mean the reasonable costs for determining the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions, any reasonable costs incurred to have the contractor's defective performance comply with the agreement, insofar as these can be attributed to the Contractor and reasonable costs, made to prevent or limit damage, insofar as Client demonstrates that these costs have led to the limitation of direct damage as referred to in these general terms and conditions.
6. The Contractor is never liable for indirect damage, including consequential damage, loss of profit, missed savings, and damage due to business stagnation.
7. The limitations of liability included in this article do not apply if the damage is due to intent or gross negligence on the part of the Contractor or his/her managerial subordinates.

Article 17. Confidentiality

1. The Client and the Contractor undertake to maintain the confidentiality of all confidential information that they have obtained from each other or from another source in the context of the Agreement. Information is considered confidential if this has been reported by the other party or if this results from the nature of the information.
2. If the Contractor is obliged on the basis of a legal provision or a court ruling to provide confidential information to third parties designated by law or the competent court and the Contractor cannot invoke a right of non-disclosure in this respect, then the Contractor is not obliged to pay compensation or compensation and the Client is not entitled to dissolve the assignment on the basis of any damage, this.
3. The Client and the Contractor will impose their obligations under this article on any third parties to be engaged by them.

Article 18. Intellectual property

1. All models, works, and/or inventions developed by the Contractor for the Client are and remain the property of the Contractor. This also includes all intellectual property rights including, but not limited to, copyrights, design rights, and/or patent rights.
2. All documents provided by the Contractor on behalf of the Client, such as reports, computer programs, system designs, working methods, advice, and contracts, can be used by the Client and can be multiplied by the Client for its own use in its own organization. Documents provided by the Contractor may not be made public by the Client without the prior written consent of the Contractor, reproduced or exploited, or brought to the knowledge of third parties unless the nature of the documents provided dictates otherwise.

Article 19. Indemnification of third parties

1. The Client indemnifies the Contractor against possible claims from third parties who suffer damage in connection with the execution of the Agreement and the cause of which is attributable to parties other than the Contractor.
2. The Client is obliged to assist the Contractor both in and out of court if the Contractor is held liable on the basis of the first paragraph of this article and to immediately do everything that may be expected of him/her in that case. If the Client fails to take adequate measures, the Contractor is entitled, without any commitment, to do so itself. All costs and damage on the part of the Contractor and third parties arising as a result are entirely at the expense and risk of the Client.

Article 20. Expiry period

1. Contrary to the statutory limitation periods, the limitation period of all claims and defenses of the Client against the Contractor shall be one year.

Article 21. Contract transfer

1. The Client is not entitled to transfer any obligation under the Agreement to third parties without the Written Consent of the Contractor. Insofar as the Contractor may have already given written permission for a contract takeover, the Client shall at all times remain liable alongside this third party for the obligations under the Agreement of which these general terms and conditions form part.
2. Furthermore, insofar as the Contractor has already given written permission for a contract takeover, the Client must inform the Contractor of this in advance and the Contractor has the right to terminate the Agreement by the date on which the transfer will take place. The Contractor is not obliged to pay any damages in this respect.

Article 22. Applicable law

1. All Agreements between the Contractor and the Client are exclusively governed by Dutch law.
2. The applicability of the Vienna Sales Convention is excluded.
3. Without prejudice to the Contractor's right to submit a dispute to the competent court according to the law, disputes between the parties will in the first instance be submitted to the competent court in the contractor's place of business, unless the law prescribes mandatory differently.

Article 23. Versions

1. These General Terms & Conditions have been translated into English. In the event of disputes of any nature in the interpretation of these General Terms & Conditions, the Dutch text and context shall prevail.