

# **General Conditions UC Group MS**

## **1 Definitions**

The following definitions apply to these General Conditions:

- “Contractor”: the cooperation UC Group MS; established and located at Marconistraat 16, 3029 AK, Rotterdam, Nederland
- “Customer”: counterparty to the “Contractor”
- “Professional”: hired professional who performs activities on behalf of “Contractor”.

## **2 General**

1. These conditions apply to every proposal, quotation and agreement between “Contractor” and “Customer” insofar as parties have not explicitly and in writing deviated from (part of) these conditions.
2. These conditions in question also apply to agreements with “Contractor”, for the performance of which the hiring of third parties by “Contractor” is required. “Customer” and “Contractor” agree that these general conditions also apply against “Customer” if “Customer” has or believes to have a claim against “Professional”, by “Contractor” assigned support staff and /or legal entities who are director of “Professional” if last mentioned is a legal entity.
3. Unless otherwise is agreed in writing, the general conditions of the “Customer” and other industry- or general conditions do not apply to the “Contractor’s” services.
4. The invalidity or reversibility of any provision of these general conditions, or of any agreements made under these conditions, are without prejudice to the other stipulations.
5. Modifications and/or amendments to these conditions are only valid if these are in writing and signed by both parties.
6. “Customer” agrees to the applicability of these conditions to pursuant assignments and/or agreements on a later date, unless deviating conditions in writing are agreed and signed by both parties.
7. In case any confusion about the interpretation of one or more stipulations of these general

conditions, interpretation must be in line with “the spirit” of these stipulations.

8. If one of the parties does not insist on a (continuous) strict observance of these conditions, this does not imply that the condition(s) in question would not be applicable or that the party would forfeit its right in future cases, whether or not similar, to demand a strict observance of these conditions.

## **3 Quotations**

1. Quotations offered by “Contractor” are non-obligatory and remain valid for a duration of 14 calendar days after quotation date, unless stated otherwise.
2. “Contractor” is only bound to the quotation if its acceptance by “Customer” is confirmed in writing within 14 days, unless “Contractor” has given written notice that the required capacity for the assignment in question is no longer available.
3. Assignments and acceptances of quotations by the “Customer” are regarded as definite.
4. Cancellation of an assignment by the “Customer” can only occur with written consent by the “Contractor”. If “Contractor” agrees with the cancellation, “Customer” is minimally liable for the restitution of all costs incurred by “Contractor” until the moment of cancellation, such to be listed by “Contractor”, as well as a compensation for lost revenues for those of “Contractor’s” “Professionals” who would have been employed under the cancelled assignment, which compensation regardless of the moment of cancellation is fixed to the amount which would have been charged for the “Professionals” in question for a maximum period of two months. Basis for the calculation of this loss of revenue will be the agreed time bucket for the “Professionals” in question.
5. All rates in aforementioned quotations are VAT excluded, unless stated otherwise.
6. Quotations are based on the information available to the “Contractor”.

7. The “Contractor” cannot be bound by its quotations if the “Customer” reasonably can understand that the quotations, or part thereof, apparently contain an error or a slip of the pen.

#### **4 Performance of the assignment**

1. “Contractor” will strive to perform the assignment to its best knowledge and ability and according to the requirements of its expertise. The obligations of “Contractor” according to an agreement made with “Customer” are an obligation to perform to the best of its ability.
2. If and as far as a correct performance of the agreement requires, “Contractor” is entitled under its own responsibility to hire third parties for the performance of activities.
3. “Contractor” after consultation with the “Customer” is entitled to replace seconded “Professionals” with adequately qualified replacements, unless agreed otherwise in writing.
4. “Contractor” will promote that its “Professionals” during the performance of their assignment at the “Customer’s” site behave according to the house- and safety rules which are observed there, as far as these, to the “Contractor’s” exclusive judgement, do not unnecessarily hinder the progress and quality of its activities.
5. Any duration for the execution of activities stated by the “Contractor” must be regarded as indicative, unless proved otherwise due to the nature or contents of the agreement and described as firm or hard deadline. “Contractor” is, even if a specific duration for the performance of its activities is agreed, only in neglect after “Customer” has informed it of negligence by registered mail and if it thereafter fails to fulfil within a reasonable time-period.
6. “Customer’s” responsibility is that all information, which “Contractor” indicates as being essential or of which “Customer” should reasonably understand it must be essential for fulfilment of the agreement, is timely provided to the “Contractor”. If essential information for fulfilment of the agreement is not timely provided to “Contractor” or if it is incomplete, “Contractor” is entitled to suspend its execution of the agreement and/or to charge “Customer” for any extra costs which are caused by the delay, according to current or

agreed rates.

7. Activities to be performed by “Contractor” will take place during workdays and during office hours (from 08:30 till 17:30). At “Customer’s” request, deviation hereof is possible, in which case “Contractor” charges a surcharge per hour according to the following:
  8. Saturdays 50%
  9. Sun- & holidays 100%
8. “Contractor” is not responsible for the operation, functionality, or availability of any third-party products. All risks and liabilities associated with the use of such products rest entirely with the “Customer” and/or the relevant third party.
9. “Contractor” provides advisory services only and assumes no responsibility for the final choices or decisions made by the “Customer” The “Customer” remains fully responsible for making decisions and for the consequences thereof.

#### **5 Duration of the agreement and cancellation**

1. The agreement is entered into for an indefinite duration, unless parties have agreed otherwise in writing.
2. Both parties are entitled to cancel the agreement starting immediately, without judicial intervention, by an announcement in writing to the other party, if:
  - a. the other party is granted a suspension of payments, it itself has petitioned for bankruptcy or is declared to be in a state of bankruptcy or in any other way has lost the control of its capital;
  - b. the other party has not been able to meet its obligations due to force majeure during a period of three consecutive calendar months, or if it is established that a state of force majeure will continue for longer than three consecutive calendar months. This entitlement to cancellation expires if the agreement of which fulfilment was temporarily suspended, is yet fulfilled;
  - c. the other party fails to meet any essential obligation from these conditions and/or agreement and it still neglects, after being declared to be in default, to meet this obligation within a period of thirty days.
3. All sums which “Customer” owes to “Contractor” for activities “Contractor” performed and for costs

it incurred, before cancellation, remain due unabridged and are as of the moment of cancellation immediately collectible, unabridged all other rights which "Contractor" has based on the agreement, these general conditions or the Law.

4. An agreement for an indefinite duration can at all times and without entitlement to compensation be cancelled by means of a writing via registered mail, with observance of a period of three months, unless parties have agreed another period for cancellation in writing.
5. At the termination of the agreement the stipulations in sections 2, 5.5, 7, 10, 11, 12 and 13 remain applicable unabridged.
6. The Parties expressly agree that any statutory restitution or unwinding obligations that may apply under the governing law shall not apply. Termination of the agreement between the "Contractor" and the "Customer" shall not give rise to any obligation to reverse, refund, or undo any performance or services already delivered.

## 6 Modification of the agreement

1. In case that during the execution of the agreement it becomes clear that for an optimal completion it is necessary to modify the activities to be performed and/or take complementary actions, parties will modify the agreement accordingly timely and in mutual consultation.
2. In case that parties agree to modifications and/or complements to the agreement, this may have consequences for the moment of completion of its execution. "Contractor" will inform "Customer" as soon as possible about this.
3. In case that the modification and/or complement to the agreement has/have any financial and/or qualitative consequence(s), "Contractor" will inform "Customer" about this in advance.

## 7 Confidentiality

1. Both parties are pledged to confidentiality about any confidential information which they receive concerning the agreement from one another or from another source. Information is classified as confidential if thus informed by the other party or if this becomes apparent from the nature of the

information.

2. "Contractor" is at all times entitled to use the case(s), the name and the logo of the "Customer" as a reference with respect to (potential) other customers, unless agreed otherwise, explicitly and in writing.

## 8 Intellectual property

1. Unabated what is stipulated in section 7 of these conditions, "Contractor" reserves the rights and authorizations to which it is entitled based on the Copyright Act ("*Auteurswet*").
2. "Contractor" reserves the right to utilize any additional knowledge which it acquires during the performance of its activities, for other purposes, without being required make payment or other compensation to "Customer", as far as by these actions it does not provide confidential information to the knowledge of third parties.
3. The "Customer" is not allowed to multiply or provide to any third party, any works, reports, advices and such provided by "Contractor", unless "Contractor" has in advance given its permission in writing.

## 9 Complaints

1. Complaints about performed activities must be reported by the "Customer", within 14 days after their discovery, however at the latest within 30 days after completion of the activities in question, in writing to the "Contractor".
2. Complaints as mentioned in the first paragraph do not postpone the obligation for the "Contractor's" payment.
3. In case a complaint is warranted, the "Contractor" will yet perform the activities as agreed, unless in the meantime this has become demonstrably unusable for the "Customer". The latter must be announced by the "Customer" in writing.
4. In case yet accomplishing of the agreed services is no longer possible or applicable, "Contractor" will only be liable within the boundaries of section 12.

## 10 Remuneration

1. "Customer" owes "Contractor" a remuneration as well as reimbursement for incurred costs according to the arrangements stated in the "Contractor's" quotation.
2. If no fixed remuneration is agreed, remuneration will be set based on the actual number of declared hours and the actual number of kilometers travelled on behalf of "Customer", if such is agreed in the quotation.
3. Travel- and accommodation expenses, other costs incurred and materials purchased on behalf of "Customer" are charged separately and in full to "Customer". "Customer" is obliged to pay these costs.
4. All rates quoted by "Contractor" are excluding VAT and other taxes/duties levied by the authorities.
5. The remuneration and costs owed are charged afterwards on a monthly basis by "Contractor" to the "Customer" by means of an invoice, unless agreed otherwise.
6. Annually, on January 1<sup>st</sup>, an indexation of the agreed rates will be performed, according to the index number by the CBS (=Dutch Central Bureau of Statistics), unless agreed otherwise.

## 11 Payment

1. Payment of the costs and remuneration charged by the "Contractor" must be made within 30 days after date of invoice, without right of settlement and / or discount.
2. After 30 days have expired after the date of invoice, "Customer" will enter a state of omission; "Customer" will owe as of the moment of its being in a state of omission an interest of 1% per month over the collectable sum, unless the legal interest is higher, in which case the legal interest applies.
3. All sums which "Customer" owes to "Contractor" for services rendered by "Contractor" prior to the cancellation of the agreement remain owed unabated and become directly collectible at the moment of cancellation, unabated all other rights "Contractor" has based on the agreement or on these conditions.

4. In case of "Customer's" (imminent) liquidation, bankruptcy or being granted of suspension of payments, "Contractor's" accounts receivable and "Customer's" obligations are immediately collectible.
5. Payments made by "Customer" always will apply first to all owed interests and costs and second to the earliest collectible invoices, even if the "Customer" states that a payment applies to an invoice from a more recent date.
6. In case of arrears in payment "Contractor" is, after giving notice to the "Customer" of being in default, entitled to cease or suspend its activities applying to the agreement in question or (any) other agreement(s) with "Customer" without "Contractor" becoming liable in any way for its consequences.

If "Customer" does not pay the due and payable invoice amounts to "Contractor" and/or if "Contractor" has a just presumption that "Customer" will not pay non due and payable invoices within agreed time frame, even if "Contractor" is required to perform first against "Customer", "Contractor" has the right to suspend her activities in relationship with the related or any other assignments with "Customer" without this resulting in any liability against "Customer"

7. If "Contractor" has just presumption that "Customer" will not fulfil her payment obligation for due and payable invoices as well as non due and payable invoices, "Customer" is on first request held to supply "Contractor" with valid certainty by issuing a standard Dutch bank guarantee in favour of "Contractor" for a reasonable financial amount, to be set by "Contractor". As long as mentioned certainty is not issued, "Contractor" has the right to suspend as mentioned in paragraph 6 of this article.
8. In case "Customer" defaults on any obligatory payment to "Contractor", "Customer" is obliged to reimburse "Contractor" for all related extrajudicial or judicial costs incurred by it or made on its behalf, the actual costs of legal counsel, including costs of lawyers, unabated all other rights "Contractor" has based on the agreement or on these conditions.

## 12 Liability

1. "Contractor" has, based on the agreement and these conditions, the obligation to soundly perform to the best of its ability the agreed activities. Therefore, "Contractor" is not in any way liable for not achieving any explicitly or implicitly stated goal

or result.

2. "Contractor" is not liable for:
  - a. damage occurring at the "Customer's" site or at third parties' caused by being handed incorrect or insufficient data or information by or on behalf of "Customer" or otherwise caused by an act or omission by "Customer".
  - b. At "Customer's" or at third parties' locations occurring business-, indirect-, or consequential damages, amongst which lost profits, lost savings and damages by business interruption.
  - c. Damage caused by to delay, damage caused by loss of data, damage caused by computer software and damage caused by exceeding delivery times as an outcome of changed circumstances.
  - d. Damage caused by or related to the use (or of not being able to use) by "Contractor" of software and/or equipment.
3. Unless agreed otherwise in writing, "Contractor's" liability from whatever cause, is limited to the sum of the remunerations (excluded VAT or other taxes/duties levied by the authorities) which is charged by "Contractor" to "Customer" for the performance of the activities from which the cause of the damage results.
4. Any damage compensation owed by "Contractor" can never exceed the amount which the "Contractor's" liability insurance covers in such a case.
5. The limitations to liability stated in this section do not apply if the damage can be ascribed to intention or gross negligence by the "Contractor".
6. Any claim from "Customer" on "Contractor" will expire after a period of 12 months after the claim's occurrence. Any claim for damage compensation either starts at the moment of the damage's occurring, or in case of non-directly detectable damage at the moment on which in "Contractor's" judgement the damage would have been first detectable.
7. "Professionals" of "Contractor" in their labor relation to the "Customer" can call on every means of defense which may be derived from this section as if they were themselves a party to the agreement between "Contractor" and "Customer".

## 13 Professionals

1. "Customer" is obliged to pay a reasonable fee to "Contractor" if and insofar as he made available "Professionals" to "Contractor", who works under the management and supervision of "Customer", such within the meaning of Article 9a Workforce Allocation for Intermediaries Act, after the end of the employment relationship between the "Contractor" and "Professionals" lets work directly or indirectly for him/her. In this context, a reasonable fee is understood to mean a fee for the services rendered by the "Contractor" to the "Customer" in connection with the provision, recruitment or training of the "Professionals". With regard to "Professionals" who are not working under the direction and supervision of "Customer" within the meaning of Article 9a of the Allocation of Labor Forces for Intermediaries Act, the "Customer" is not permitted to provide "Professionals" for a period of two (2) years after the end of the employment relationship between "Contractor" and "Professionals" to work for him directly or indirectly, or under penalty of forfeiting a fine by "Customer" to "Contractor" of € 10,000 and an equal amount for each day that the violation continues.
2. "Customer" guards "Contractor" from all adverse effects and damage as a result of claims and/or demands from the "Customer's" Professionals, according to transfer of a corporation or parts thereof, as intended in paragraph 7:662 e.v. et seq. BW.
3. "Customer" guards "Contractor" from all damage and liability as a result of claims and/or demands from "Professionals" related to industrial accidents and/or hazards at the "Customer's" company, as intended in paragraph 7:658 e.v. BW.

## 14 Force majeure

1. Force majeure is defined in these general conditions, next to what concerning this subject is codified in law and jurisprudence, as any external cause, including severe illness or vital interests of "Contractor's" active "Professionals", whether anticipated or unexpected, on which "Contractor" is unable to exert influence, which however result in "Contractor" being unable to fulfill its obligations.
2. "Contractor" also reserves the right to invoke force majeure if the circumstance which prevents a (further) fulfilment occurs after "Contractor" should

have fulfilled its obligation.

3. In case of force majeure "Contractor's" obligations are suspended. If the duration of the period during which force majeure prevents fulfilment of obligations by "Contractor" exceeds three months, each party is entitled to extrajudicial cancel the agreement, in this case without the occurrence of an obligation to compensate for damage.
4. In case "Contractor" has already fulfilled part of its obligations at the time of the start of force majeure, or can only in part fulfill its obligations, it is entitled to invoice for the fulfilled casu quo accomplishable part separately and "Customer" is obliged to pay this invoice as if it would concern a separate contract.

## **15 Applicable law and disputes**

1. To all agreements between "Contractor" and "Customer" solely the Laws of the Netherlands apply, likewise if an obligation is completely or in part fulfilled abroad or if the party to which the legal relationship is related has its domicile abroad.

2. The judge in "Contractor's" domicile is exclusively authorized to take note of disputes, unless the law imperatively proscribes otherwise. Nonetheless, "Contractor" is entitled to present the dispute to the judge who is authorized according to the law.
3. Parties will only appeal to the law, after they have made a maximum effort to settle the dispute in mutual consultation.

## **16 Filing of conditions**

1. These conditions can be referred to as "Algemene Voorwaarden (=General Conditions) UC Group MS".
2. These conditions are filed at the Rotterdam Chamber of Commerce.

## **17 Disclaimer**

These General Conditions in English are a translation from the original text of the UC General Conditions Group MS in Dutch. At all times and under any circumstances, the text as defined in the original text in Dutch will take precedence in case of any contradictions between the texts.