

MWJ Graphic Support

MWJ Graphic Support
Korenbloem 12
1422 KR Uithoorn
Netherlands

General Terms and Conditions, June 2014

General Terms and Conditions service provider

Article 1 Definitions

In these General Terms and Conditions the terms below will be used with the meaning set forth next to it, unless stated differently.

Contractor: * **MWJ Graphic Support**

Principal: * *(the counterparty of Contractor)*

Commission: * *(the activities to be determined in mutual consultation between Principal and Contractor that must be executed by the Contractor and the terms and conditions under which this should take place.)*

Article 2 General

1. The General Terms and Conditions are applicable to all special offers, offers, activities, Commissions and Agreements between Contractor and Principal(s), on which Contractor has declared these General Terms and Conditions applicable, to the extent that from these General Terms and Conditions is not being deviated in writing.
2. These General Terms and Conditions are also applicable to Commissions with Contractor, whereby third parties are (being) involved.
3. If one or several of the stipulations in these General Terms and Conditions become void, then the remaining stipulations of these General Terms and Conditions remain applicable. Parties shall in that case enter into consultation to agree upon replacement stipulations, whereby to the extent that such is possible, the purpose and the tenor of the original stipulation will be the point of departure.

Article 3 Offers

1. Offers of Contractor are based on the information that has been given by Principal. Principal warrants that to the best of his knowledge has provided all information essential to the set-up, execution and completion of the commission.
The offers made by Contractor are non-binding and valid during 30 days, unless stated differently. Contractor is only bound to the offers if the acceptance thereof is confirmed by the counterparty in writing within 30 days, unless stated differently.
2. The prices in the mentioned offers are exclusive of VAT, other levies by the government and other costs made for the commission, such as shipping and administration costs, unless stated differently.
3. If the acceptance deviates (on minor points) from the offer in the offer document, then Contractor is not bound by it. The commission then is not concluded according to the deviating acceptance, unless Contractor states differently.
4. A composed price statement does not oblige Contractor to the execution of a part of the commission against a commensurate part of the price.
5. Offers do not automatically apply to future Commissions.

Article 4 Making information available and cooperation

Principal shall provide to Contractor timely all documents, information and contacts that are necessary for a good execution of the commission.

Article 5 Execution of the commission and the involvement therein of third parties

1. Contractor shall execute the activities in the framework of the commission, according to the best of his insights, expertise and abilities.
2. To the extent that such is required for a good execution of the commission, Contractor has the right to let (parts of) the work be executed by third parties. He does this in consultation with Principal and shall do his utmost to achieve the agreed obligations and quality.
3. Contractor accepts no liability for the activities that are executed by third parties to the extent that these have concluded an agreement by themselves with Principal.

4. Contractor is not liable for damage that has emerged because he has relied on incorrect and/or incomplete data provided by Principal, unless the incorrectness or incompleteness of the data should have been known to him.
5. If it has been agreed that the commission shall be executed in phases, Contractor can suspend the execution of those parts that belong to a following phase, until Principal has approved the results of the previous phase in writing.
6. If by Contractor or by third parties deployed by Contractor, activities are being executed for the commission on the location of Principal or a location designated by Principal, then Principal shall arrange free of charge for facilities desired in reasonableness by those employees.

Article 6 Change of the commission, extra work

1. Principal accepts that the time planning of the commission can be influenced if parties decide in between to change in approach, way of working or scope of the commission and the activities deriving there from.
When changes emerge in between in the execution of the commission because of Principal, then Contractor will apply the necessary modifications on commission of Principal. Should this lead to extra work, then he will charge this as an additional commission to Principal.
Contractor may bring the extra costs for change of the commission into account to Principal.
2. In deviation of section 1, Contractor shall charge no extra costs when the change or addition of the commission is the consequence of circumstances that can be imputed to Contractor.

Article 7 Tenor of contract; term for execution

1. Parties concluded the commission for an indefinite period, unless agreed differently in writing.
2. If within the tenor of the commission for the completion of certain activities a term has been agreed, than this is no fatal term. Upon exceeding of the term for execution, Principal should therefore declare Contractor in default in writing.

Article 8 Rates

1. When parties have not agreed differently in writing, Contractor will establish his rate according to his hourly rate.
2. In the rate of Contractor are included the costs of secretarial activities and phone costs. Travel time he will charge onwards for half of the hourly rate. Travel and board costs he shall declare according to the agreements in the offer. In all offers Contractor shall charge only the actual spent time and in case of an imminent exceeding of more than 5% of the offer amount, he shall declare after consultation with Principal.
3. Amounts are exclusive of VAT.
4. If Contractor agrees with Principal on an hourly rate, then the Contractor is nevertheless authorised to increase this rate without that the Principal in that case is authorised to dissolve the agreement for that reason, if the increase of the price derives from an authority or obligation according to the laws or regulations or finds its cause in an increase of the price of raw materials, wages etcetera or on other grounds that were not reasonably foreseeable upon the conclusion of the agreement.
5. Contractor may - without prior notification in writing – per the 1st of January of each calendar year increase the rate agreed in the offer with a maximum of the percentage of the inflation in the previous year provided by the CBS.
In case of increase of prices outside the inflation Contractor may also increase the prices. Principal may cancel the commission in case of an annual increase of more than 10%. He may not do this, when the increase derives from the law.
6. Contractor shall notify Principal in writing of his plans for increase of the rate, inclusive of the height and the starting date thereof.
7. If Principal does not agree with the increase of more than 10% planned by Contractor, then he can within two weeks after the notification thereof, cancel the commission in writing per the starting date of the increase mentioned in the notification of Contractor.

Article 9 Payment conditions

1. Payment should take place within 30 days after the date of the invoice, unless agreed differently.
2. After the due date Principal is in default by law and Contractor has the right to charge the interest by law. Principal charges the interest over the amount to be paid as from the moment that Principal is in default, until the amount is fully paid. The costs of a reminder, summation are each time € 100.00 and are for the account of Principal.
3. Contractor has the right to let the payments made by Principal firstly for the reduction of the costs, subsequently the reduction of the appeared interest and finally for the reduction of the principal amount and the current interest. Contractor can, without thereby coming into default, refuse an offer for payment, if the Principal designates a different sequence for the allocation of the payment. Contractor can refuse complete redemption of the principal amount, if thereby not also the appeared and current interest and collection costs are being paid.
4. In case of liquidation, bankruptcy, seizure or suspension of payment of Principal, the claims of Contractor on Principal are immediately payable upon demand.
5. In case of the non-compliance of the obligations by Principal, all costs that are made to be able to claim from Principal, are for the account of Principal, both in court and out-of-court.

Article 10 Retention of property

1. All goods delivered by Contractor such as designs, sketches, drawings, films, software and (electronic) files, shall remain the property of Contractor until Principal has complied with all of his obligations.
2. Principal is not authorised to put a lien on the goods falling under the retention of property or to encumber them in another manner.
3. Should third parties seize the goods delivered under retention of property or they wish to vest or claim rights on these, then Principal should notify Contractor thereof as soon as may be expected of him.
4. Principal is obliged to insure and keep insured the goods delivered under retention of property against fire, explosion, water damage and theft and to give the policy of this insurance immediately for viewing upon request.
5. The goods delivered by Contractor, that according to section 1. of this article, fall under the retention of property may only be sold onwards in the framework of a normal conduct of enterprise, but never be used as a means of payment.
6. Should Contractor wish to exercise his property rights designated in this article, then Principal gives an unconditional and irrevocable permission to Contractor - or to third parties designated by him to assess all locations where the properties of Contractor are located and to repossess these goods.

Article 11 Inspection, reclamations and complaints

1. Complaints over the executed activities Principal should report within two weeks after the date of the invoice and no later than within three weeks after completion of the concerned activities, in writing to Contractor. The notification of default should contain a description as detailed as possible of the shortcoming, so that Contractor can respond adequately to it.
2. If a complaint is justified, then Contractor shall execute the activities as agreed after all, unless this has become senseless demonstrably. The latter Principal should make known in writing.
3. If the execution after all of the agreed activities is no longer possible or meaningful, then Contractor is liable, within the limits of article 15.

Article 12 Cancellation

If the agreement is cancelled in between by Contractor, Contractor shall in consultation with the Principal arrange for the transfer of activities yet to be executed to third parties. This unless the cancellation is imputable to the Principal. If the transfer of the activities brings along extra costs for Contractor, then these will be charged to the Principal. The Principal is obliged to pay these costs within the term mentioned for it, unless Contractor states differently.

Article 13 Suspension and dissolution

1. Contractor is authorised to suspend the compliance with the obligations or to dissolve the agreement, if the Principal does not, not fully or not timely comply with the obligations from the agreement, circumstances come to the knowledge of Contractor after the conclusion of the agreement give good ground to fear that the Principal shall not comply with the obligations, if the Principal has been requested upon the conclusion of the agreement to provide surety for the satisfaction of his obligations from the agreement and this surety remains absent or is insufficient or if by the delay at the side of the Principal it cannot be required any longer of Contractor that he shall comply with the agreement against the conditions originally agreed.
2. Furthermore Contractor is authorised to dissolve the agreement circumstances that arise which are of such nature that compliance with the agreement is impossible or otherwise circumstances occur that are of such a nature that an unchanged maintaining of the agreement in reasonableness cannot be required of Contractor. If the agreement is dissolved, then the claims of Contractor on the Principal are immediately payable upon demand. If Contractor suspends the compliance with the obligations, he retains his claims from the law and the agreement.
3. If Contractor proceeds to suspension or dissolution, then he is in no way whatsoever liable for compensation for damage and costs emerged in any way there from.
4. If the dissolution is imputable to the Principal, then Contractor is entitled to compensation of the damage, including the costs, derived there from directly and indirectly.
5. If the Principal does not comply with his obligations deriving from the agreement and this non-compliance justifies dissolution, then Contractor is authorised to dissolve the agreement with immediate effect and immediately without any obligation on his side to payment of any compensation for damage or indemnification, while the Principal, on the basis of default, however indeed is obliged to compensation for damage or indemnification.

Article 14 Return of goods made available

1. If Contractor has made goods available to Principal during the execution of the commission, then Principal should give back to Contractor the delivered upon his request in writing within 14 days in its original state, free of defects and in full. If Principal does not comply with this obligation, then all costs deriving here from are for his account.
2. If Principal, after he has received a summation, still remains in default, then Contractor may take recourse on him for the damage and costs deriving there from, including the costs of replacement.

Article 15 Liability

1. For accepted Commissions Contractor has an obligation to make an effort.
If Contractor should be liable, then this liability is limited to what has been set forth in this stipulation.
2. Contractor is not liable for damage, of whichever nature, emerged because Contractor has relied on incorrect and/or incomplete data provided by or on behalf of the Principal.
3. Contractor is solely liable for direct damage. Under indirect damage is solely understood the reasonable costs for the establishment of the cause and the scope of the damage, to the extent that the assessment concerns damage in the sense of these General Terms and Conditions, the possible reasonable costs made to let the defect performance of Contractor comply with the agreement, to the extent that this can be imputed to Contractor and reasonable costs, made for the prevention or limitation of damage, to the extent that the Principal demonstrates that these costs have led to limitation of direct damage as referred to in these General Terms and Conditions. Contractor is never liable for indirect damage, including consequential damage, missed profits, missed savings and damage by enterprise stagnation.
4. If Contractor is liable for direct damage, then this liability is limited to the maximum of the declaration amount and in any case to the amount of the pay-out provided by the insurer of Contractor in the prevalent case.
5. The limitations of the liability mentioned in this article do not apply if the damage is due to wilful intent or gross negligence of the Contractor or his managing employees.

Article 16 Safeguards

Principal safeguards Contractor from claims of third parties, that in relation to the execution of the agreement suffer damage and of which the cause is imputable to others than to Contractor. If Contractor on that basis should be held liable by third parties, then the Principal is obliged to assist Contractor both out-of-court and in-court and to do without delay what may be expected of him in that case. Should the Principal remain in default in taking adequate measures, then Contractor is, without notification of default to proceed to do that himself. All costs and damage on the side of Contractor and third parties emerged because of that, shall be integrally for the account and risk of the Principal.

Article 17 Force Majeure

1. Parties do not have to comply with obligations if they are impeded by circumstances that are not imputable to fault, and – according to the law - also not when a legal act or a circumstance is for their account according to views in society.
2. Under Force Majeure is being understood – in addition to what is understood in the law and jurisprudence – all external causes, foreseen or not foreseen, on which Contractor can exercise no influence, but because of which he is not able to comply with his obligations. Work strikes in the enterprise of Contractor, illness and/or disability to work are also included.
3. Contractor has also the right to claim Force Majeure, if the circumstances that impede (further) compliance, emerge after he would have had to comply with his obligations.
4. Parties can postpone their obligations during the situation of Force Majeure. Should the situation of Force Majeure last longer than two months, then all parties may dissolve, without obligation to pay compensation of damage to the other party.
5. If Contractor on the moment of Force Majeure has already partially complied with his obligations or shall he be able to comply with these, then he may declare this part. Principal will pay this declaration then as if it concerned a separate commission.

Article 18 Confidentiality

1. Both parties are obliged to keep secret confidential information that they have obtained for the commission. Information is regarded to be confidential if this has been stated by the other party or if this shows from the (sort of) information.
2. Should Contractor provide confidential information to third parties – designated by the law or a court ruling and he cannot claim a lawful or court approved right of exemption, then he is not obliged to compensation for damage or indemnification and the counterparty is not authorised to dissolve the commission on the basis of the damage that has emerged from this.

Article 19 Intellectual property and copyrights

Contractor reserves the rights and authorities that are allocated to him on the basis of the Dutch law Auteurswet and other intellectual laws and regulations. Contractor has the right to use the increased knowledge on his side by the execution of an agreement also for other purposes, to the extent that hereby no strictly confidential information of the Principal is brought to the knowledge of third parties.

Article 20 Disputes

1. In case of disputes that derive from this Agreement or Agreements continuing thereon, parties shall try to resolve this in the first instance with the aid of Mediation according to the regulation of the “Stichting Nederlands Mediation Instituut” in Rotterdam, the Netherlands, as it is in force upon the start of the Mediation.
2. If it proves to be impossible to resolve such a dispute with the aid of Mediation, then the dispute shall be resolved by the competent court.

Article 21 Applicable law

On each Commission between Contractor and Principal the laws of the Netherlands shall apply. Also if execution is given to a legal obligation in part or in its entirety abroad or when Principal resides in or has his legal seat abroad.

