

TERMS AND CONDITIONS

Article 1 General

1. These conditions are applicable to every tender, proposal and agreement between EST Services, from this moment on referred to as: "User", and a Principal whereto User has proclaimed these conditions to be applicable, up to the extent that there has been no explicit and written deviation by parties.
2. The conditions in question also apply to agreements with User, when User should make use of third party involvement for execution.
3. These terms and conditions are also written for the employees of User and its Executives.
4. The aptness of any purchasing or other conditions by Principal is explicitly rejected.
5. If at any moment one or more provisions in this term and conditions will become partially or completely void, the in these terms and conditions determined provisions will continue to apply. User and Principal will then deliberate in order to come to agreement on new provisions that will replace the void or rescinded provisions, where the scope and intention of the original provisions will be complied with to the fullest extent.
6. If there should be any ambiguity regarding the explanation of one or more provisions of the terms and conditions, the explanation should take place in the 'tenor' of these provisions.
7. If a situation arises between the parties involved that is not specified in the terms and conditions, then this situation should be assessed in the tenor of the terms and conditions.
8. If User does not constantly demands strict abidance of the conditions, it does not mean that the conditions do not apply, or that User in any case would lose the right to demand strict abidance of the conditions in different situations.

Article 2 Offers and Proposals

1. All proposals and offers of User are free of obligations, unless in the proposal a term for acceptance is made. When no terms for acceptance have been established, no legal rights can be obtained if the product concerning the offer or proposal in the meantime has become unavailable.
2. User cannot be held accountable for its offers or proposals when the Principal can reasonably comprehend that the proposals or offers, or parts of them, contain obvious mistakes or misprints.
3. All rates stated in a proposal or offer are excluding VAT taxes and other governmental charges, possible within the framework of contract costs, including travel and subsistence, shipping and handling costs, unless otherwise indicated.
4. If the acceptance (whether or not to subordinate items) differs from the tender offer or the offer included then User is not bound. The agreement will not be established in concurrence with this deviating acceptance, unless User indicates otherwise.
5. A composite quote does not oblige User to carry out a portion of the contract at a corresponding part of the specified price. Offers or proposals do not apply automatically for future orders.

Article 3 Contract duration; implementation deadlines, risk transfer, implementation and modification agreement; price increase

1. The agreement between User and Principal is for an indefinite period of time, unless differently arisen from the nature of the agreement or if the parties explicitly agree otherwise in writing.
2. When there is an agreement upon or specified period of time for implementation of certain activities or for the supply of certain cases, this is never a firm date. When exceeding a term the Principal should default User in writing. User should be offered a reasonable time frame in order to still fulfil the agreement.
3. User will carry out the agreement to the best of his knowledge and ability in accordance with the requirements of good craftsmanship. One and another based on the current position of science.
4. User pertains the right to make use of third party involvement for certain activities. The applicability of article 7:404, 7:407 lid 2 en 7:409 BW is explicitly excluded.
5. If by User or by User enabled third parties under contract activities are being performed on the Principals' location or a location designated by the Principal, the Principal bears care for those employees reasonably desired facilities, free of charge.
6. Delivery takes place at the company of User. The Principal is obliged to take business from the moment that they are made available to him. If the Principal refuses or fails to provide information or instructions necessary for the delivery, User is entitled to save business at the expense and risk of the Principal. The risk of loss, damage or devaluation is transferred to the Principal from the moment that business is available.
7. User is entitled to execute the agreement in several stages and therefore bill the executed parts separately.
8. If the agreement is executed in several stages, User can suspend execution of those parts that belong to a sequential stage until the Principal has approved the results of the previous stage in writing.
9. The Principal shall ensure that all data, of which User indicates what is necessary or of which the Principal should reasonably comprehend that is necessary for execution of the agreement, timely is provided to User. If the for execution necessary information is not provided for on time to User, User has

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the right to suspend the agreement and/or charge the extra costs flowing from the delay to the Principal according to the common rates. The implementation term does not commence before the Principal has provided the data. User is not liable to damages of any kind, by using false and/ or incomplete data provided by the Principal.

10. If during the implementation of the agreement appears that for proper implementation it is necessary to amend or add supplements to the agreement, both parties will engage in deliberation on the adjustment of the agreement. If the nature, scope or content of the agreement is altered, whether or not requested or appointed by the Principal, by the qualified authorities et cetera, and thus changing the agreement in quality and/ or quantitatively, this can bear consequences for the original agreement. The original agreed upon amount can thereby be increased or decreased. User will provide quotations as much as possible in advance. The initial specified term of implementation may also be changed when the agreement is altered. The Principal accepts the possibility of modifications to the agreement, including the modification in price and execution term.
11. If the agreement is amended, meaning that a supplement has been added, then User is entitled to carry this out primary after being approved by the within User certified person and the Principal has agreed to specified price and other conditions for implementation, including the then to determine time of implementation. The failure or not immediate execution of the modified agreement does not mean breach by User and is for Principal no valid reason to terminate or cancel the agreement.
12. Without sanction, User can refuse a request for modification, if this could have qualitative and/ or quantitative consequences for issues like work performance or work delivery.
13. If Principal fails to live up to proper fulfilment of which he has been held to towards User, then Principal will be held accountable for all damages directly or indirectly incurred on the side of User.
14. If User and Principal have agreed upon a fixed fee or fixed price, User nevertheless is entitled to raise this fee or price without the Principal being entitled to dissolve the agreement for that reason, if the increase in price stems from a qualification or obligation by law or regulation or if it stems cause from an increase in the price of raw materials, wages et cetera or on other grounds that were not reasonably foreseeable at the commencement of the agreement.
15. If the increase in price other than as a result of an amendment to the agreement exceeds 10% and takes place within three months after signing the agreement, then solely the Principal appealing to Title 5 section 3 of Book 6 BW is entitled to dissolve the agreement by means of a written statement, unless User
 - Is still willing to perform according to the originally agreed upon agreement;
 - If the price increase results from a qualification or rule of law to which User has to abide;
 - If stipulated that delivery will take place after at least three months after the realization of the agreement;
 - Or, in delivery of a case, if is stipulated that the delivery will take place after at least three months after the sale.

Article 4 Suspension, dissolution and interim termination of the agreement

1. User is qualified to suspend or dissolve his obligations, if the Principal does not completely or timely meet the obligations set in the agreement, when after realisation of the agreement User notifies circumstances that significantly infer that the Principal will not follow through on his obligations, if the Principal has been requested to guarantee satisfaction of his obligations under the agreement and this guarantee is lagging or is insufficient or if the Principal is responsible for delays it can no longer be demanded of User that the original agreed upon conditions will be met.
2. Furthermore, User is qualified to dissolve the agreement if circumstances arise which are of such nature that compliance of the agreement will be impossible or if circumstances arise in another way which are of such nature that the unrevised conservation of the agreement cannot reasonably be expected of User.
3. If the agreement is dissolved claims of User on the Principal are due immediately. If User suspends abidance of the obligations, he will maintain his claims by law and agreement.
4. If User chooses to suspend or dissolve the agreement, in no case will he be liable for compensation of damages and costs emerged in any way.
5. If the Principal is accountable for the dissolution, User is entitled to compensation of the damages, including costs, that occur directly and indirectly.
6. If the Principal does not live up to his obligations stemming from the agreement and justifies his not living up to the agreement dissolution, then User is entitled to terminate the agreement immediately without any obligation for payment of damages or compensation, while the Principal, by default, is obligated to damages or compensation.
7. If in the meantime the agreement is being terminated by User, User will, in communication with the Principal, bear care for the transfer of unfinished work to third parties. This unless the Principal is accountable for the termination. If the transfer of activities comes along with additional costs, then these charges will be billed to the Principal. The Principal must comply to the specified terms for these charges, unless specified differently by User.

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8. In the event of liquidation, of (appliance for) suspension of payment or bankruptcy, of confiscation – if and to the extent that confiscation is not reversed within three months – at the expense of the Principal, of debt realisation or other circumstances which limit the Principal's ability to freely access his capital, the User is free to terminate the agreement promptly and immediately or to cancel the order or agreement without any obligation to pay any damages or compensation from his side. In this case the claims of User on the Principal are immediately collectible.
9. If the Principal cancels a placed order completely or partially, the performed services and the already ordered supporting materials or preparations, increased with the possible supply, take away and delivery costs and for the execution of the agreement reserved labour time, will be charged integral to the Principal.

Article 5 Majeure

1. User is not bound to be accounted for any obligation against the Principal if he is being hindered as a result of a circumstance without blame, nor under the law, an act or in commerce applicable views.
2. In these terms and conditions force majeure is defined as, in addition to the concerning laws and jurisprudence, all external causes, predicted or not predicted, on which User cannot exert any influence, but leaves User unable to meet his obligations. Strikes within the company of User or of third parties involved are included in this provision. User also has the right to invoke force majeure if a situation arises which interferes with (further) fulfilment of the agreement, after the original commencement of User's commitment.
3. User can suspend obligations under the agreement for as long as the force majeure continues. 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. For as far as User has been able to or will be able to meet his obligations from the agreement at the time of invoking force majeure, and at the fulfilled respectively remain to fulfil part an independent value can be assigned, User is entitled to bill the fulfilled respectively remain to fulfil part separately. The Principal is obliged to treat this invoice like there is a separate agreement.

Article 6 Payment and Collection costs

1. Payments should take place within 14 days after the invoice date, on a by User specified manner in the currency stated on the invoice, unless expressed written by User. User is entitled to bill periodically.
2. If the Principal fails to meet timely payment of an invoice, then the Principal is negligent by law. The Principal then owes an interest rate of 1% per month, unless the legal interest rate is higher, in which case the legal interest rate is owed. The interest on the claimable amount shall be calculated from the moment that the Principal omits the negligence up until settlement of the complete amount owed.
3. User is entitled to make the payments done by Principal concern in the first place reduction of the costs, secondly reduction of arrear interest and finally reduction of the principal and the accrued interest. User can, without becoming negligent, refuse a pay off proposal, if the Principal designates a different sequence of payment. User can reject full amortization of the principal, if the arrear interest and accrued interest and collection costs are not settled as well.
4. The Principal is never entitled to settle the amount owed by him to User. Objections to the amount of an invoice do not put off the payment commitment. The Principal who cannot appeal to section 6.5.3. (Articles 231 up until 247 Book 6 BW) is neither entitled to put off the payment of an invoice for another reason.
5. If the Principal is in default or is negligent in the (timely) following up on his obligations, then all reasonable charges in order to obtain justification out of court are on account of the Principal. The extra judicial costs will be based on what is common in the Dutch collection practises, currently that is the calculation method according to Rapport Voorwerk II. However if User has made higher collection costs than reasonably were necessary, the actual made costs are eligible for compensation. The eventual made judicial and execution costs will also be recovered from the client. The Principals also owes interest on the debt collection costs.

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Article 7 Retention

1. The under agreement delivered by User stays property of User until the Principal has properly met all obligations from the with User made agreement(s).
2. The by User delivered, that according to section 1 of this article falls under the property retention, may not be resold and may never be used as method of payment. The Principal is not authorized to pawn anything belonging to property retention or encumber it in any other way.
3. The Principal should always do what can reasonably expected from him to safeguard the property rights of User. If third parties seize the under retention delivered be it want to settle rights on it or exercise it, then the Principal is obligated to notify User immediately. Furthermore the Principal is obligated to insure and assure the under title delivered against fire, explosion and water damage as well against theft and to provide the policy of this insurance for inspection at the first request to User. When eventual payment occurs of this insurance User is entitled to these tokens. Insofar necessary the Principal commits himself to User to cooperate in advance to all that might (seem to) be necessary or desirable.
4. Insofar necessary User wants to exercise his in this article indicated property rights, the Principal consents in advance to unconditional and irrevocable permission to User and to by User to be appointed third parties to enter all locations where the properties of User are and recollect them.

Article 8 Warranties, research and advertising, period of limitation

1. The by User to be delivered goods/services meet all standard requirements and norms which reasonably can be expected and for which they are designed when normally used in the Netherlands. The in this article mentioned warranty is applicable to items that are destined for use within the Netherlands. When using them outside of the Netherlands the Principal should verify himself I the use of it is suited for use there and meet the criteria that are necessary then. In this situation User can set different warranty and other conditions regarding the to be delivered goods or the to be carried out activities.
2. The in section 1 of this article referred to warranty also counts for a period of 14 days after delivery, unless from the nature of the delivered something differently results or parties have agreed otherwise. If the by User provided warranty concerns a case that has been produced by a third party, then the warranty is limited to, the one that is provided by the producer of the former case, unless differently stated.
3. Every form of warranty will expire if a deficit has arisen as result of or stems from an injudicious or improper use of it or use after the expiration date, wrongful storage or maintenance of it by the principal and / or by thirds when, without written consent of User, the Principal or thirds have made alterations or have tried to make alterations, has been attached to other matters that should not be attached there or if these were processed or modified in a different than proscribed way. The Principal will also be liable when the deficit has arisen by, or as a consequence of circumstances that User cannot influence, there under included are weather conditions (like for example yet not exclusive, extreme rain or temperatures) et cetera.
4. The Principal is obligated to (call for) inspect(ion) on the delivered, immediately at the moment when the goods/services are made available to him respectively when the relevant proceedings have been carried out. Furthermore the Principal should inquire if the quality and / or quantity of the delivered matches with the agreed upon and meets the demands that the parties thereto have agreed to. Any visible flaws should be notified to User in writing. Any not (visible) flaws should immediately, however in any case at the latest within fourteen days after its discovery, be notified to User in writing. The notification should entail a description of the flaw in full details, so User can be able to react adequately. The Principal should provide User with the opportunity to investigate a complaint.
5. If the Principal complains timely, its payment commitment will not be suspended. The Principal will have to collect and pay otherwise ordered goods an that to which he has commissioned User to.
6. If a flaw is notified later, then the Principal will not be entitled to recovery, replacement or compensation.
7. If it has been established that a good is defective and it has been timely notified, then User will, if the defective good arrives within reasonable term after return a receipt of it or, if returning reasonably wise is not possible, a written notification on the defect by the Principal arrives, by choice of User, replace or take care for recovery of tit or provide its replacement fee to the Principal. In the case of replacement, the Principal is obligated to return the to be replaced good to User and provide property of it to User, unless User stipulates otherwise.
8. If it has been established that a complaint is unfounded, then the costs that emerge from it, including the investigation costs, on behalf of User, will integral be charged to the Principal.
9. When the warranty term has passed, all costs for recovery or replacement, including administrative-, sending- and transportation costs, will be charged to the Principal.
10. Deviating from the legal periods of limitation, the period of limitation of all claims and objections against User an the by User involved thirds in execution of an agreement, is one year.

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Article 9 Liability

1. If User should be liable, then this liability is restricted to what is regulated in this provision.
2. User is not liable for damages, of any nature, caused by using wrongful and / or incomplete data provided for by the Principal.
3. If User should be liable for any kind of damage, then the liability of User is restricted to a maximum of twice the invoice value of the order, at least until the part of the order regarding the liability.
4. The liability of User in any case is always limited to the amount of entitlement of his insurance as appropriate.
5. User is only liable for direct damage.
6. Direct damage only means the reasonable costs for determination of the cause and size of the damage, to the extent the determination has a relation to the damage under these conditions, to the eventual reasonable costs made to make User respond to the poor performance of the agreement, to the extent these can be accounted to User and reasonable costs, made to prevent or limit damage, to the extent that the Principal can demonstrate that these costs have lead to a restriction of the direct damage as meant in these terms and conditions. User is never liable for indirect damage, which includes consequential damage, not realized profit, lost savings and damages through business interruptions.
7. The in this article included limitations of liability do not count if the damage is to blame purposely intent or gross negligence of User or its superiors or subordinates.

Article 10 Safeguarding

1. The Principal protects User for any claims made by third parties, which are related to the execution of the agreement from which they suffered damages and for which the causes are attributable to others than the User. If on this basis the User should be addressed by third parties, then the Principal held User will assist outside as in court and immediately do everything that may be expected from him. Should the Principal fail in taking adequate measures, then User is entitled to do it oneself, without any notice. All costs and damages on behalf of User and thirds that may arise because of it, will be integrally for charge and risk to the Principal.

Article 11 Intellectual property

1. User reserves the rights and responsibilities for which he is entitled to under the Copyright and other intellectual laws and regulations. User has the right to use his increased knowledge by the execution of an agreement for other purposes, providing that no strictly confidential information of the Client is brought to notice to other parties.

Article 12 Relevant law and disputes

1. For all legal relationships whereby the User is a factor, is exclusively the Dutch law applicable, even if an engagement is wholly or partly implemented abroad or if the legally concerned party is domiciled there. The applicability of the Vienna Sales Convention is excluded.
2. The court in the User's location shall have exclusive jurisdiction to hear and decide on legal matters concerning disputes, unless the law mandatory prescribes otherwise. Nevertheless, the User has the right to lay the dispute to a legally competent judge.
3. The parties will appeal to the courts after they went to great efforts to settle the dispute by mutual agreements.

Article 13 Reference and alteration terms

1. These terms are filed at the Chamber of Commerce in Amsterdam
2. The last filed version applies at all times, or the version valid at the time of the creation of the legal relationship with the User.
3. The Dutch transcript of the general conditions determines the interpretation at all times.