

GENERAL TERMS AND CONDITIONS KOFFEMAN CONSULT B.V.

1. DEFINITIONS

In the present general terms and conditions, the following terms must be construed as set forth below:

- The Customer: the natural person, legal entity and/or party issuing the order;
- The Contractor: Koffeman Consult B.V., hereinafter 'Koffeman Consult';
- The Contract and/or Order: the contract for professional services concluded between the Customer and Koffeman Consult, under the terms of which Koffeman Consult undertakes to perform work and/or render services to the Customer;
- the Terms: the present general terms and conditions;

2. APPLICABILITY

- 2.1 All quotations, offers, tenders, contracts and/or orders between Koffeman Consult and the Customer to which Koffeman Consult has declared the Terms applicable are subject to the present Terms.
- 2.2 Third parties (in the sense of section 6:76 of the Netherlands Civil Code) called in by or on behalf of Koffeman Consult to execute the Contract can also invoke the Terms vis-à-vis the Customer.
- 2.3 Derogations from the Terms will be valid only if the parties have agreed thereon explicitly and in writing.

3. THE FORMATION OF THE CONTRACT

- 3.1 Unless the parties agree otherwise, and subject to the provisions of section 6:225(1) of the Netherlands Civil Code, the Contract will be formed by the present Terms and the order confirmation issued by or on behalf of the Customer.
- 3.2 If the Order is issued orally or if Koffeman Consult has not (yet) received an order confirmation, the Contract will be deemed to have been concluded subject to the present Terms at the point at which Koffeman Consult commences executing the Order at the Customer's request.
- 3.3 The Contract will be concluded for an indefinite period, unless the nature, content or purport of the Order entail that it has been concluded for a definite period.

4. THE EXECUTION OF THE CONTRACT

- 4.1 Koffeman Consult will render all the services with which it is charged to the best of its knowledge and ability and in conformity with generally-accepted professional standards. Koffeman Consult will be required only to invest its best efforts in the

actual or proposed services and the Contract, unless the parties have agreed otherwise, explicitly and in writing.

- 4.2 Orders will be accepted and executed only by the private limited liability company in Dutch law (*besloten vennootschap met beperkte aansprakelijkheid*) Koffeman Consult B.V.. The parties hereby explicitly rule out the applicability of sections 7:404 and 7:407(2) of the Netherlands Civil Code, even if they had had the explicit or implicit intention that the Order would be executed by a specified person.
- 4.3 Koffeman Consult will decide how the Customer's Order is executed, but will take account of the Customer's wishes to the extent possible.
- 4.4 If the parties had agreed on certain or specific services, Koffeman Consult can only invoice the Customer for extra work (*meerwerk*) if the Customer had given its prior permission therefor. If Koffeman Consult is however required to perform extra work pursuant to its (statutory) duty of due care, it is authorised to charge the Customer for such extra work, even if the Customer had not given its prior and explicit permission.
- 4.5 Koffeman Consult will keep an updated file while it executes the Order, including copies of relevant documents; this file will remain the property of Koffeman Consult.

5. THE CUSTOMER'S CO-OPERATION

- 5.1 The Customer must ensure that all data and documentation which is necessary for the prompt and proper execution of the Order is made available to Koffeman Consult in good time.
- 5.2 The Customer must ensure that Koffeman Consult is informed of facts and circumstances which could be important to the proper execution of the Order without delay.
- 5.3 Unless the parties agree otherwise, the Customer is responsible for the accuracy, comprehensiveness and reliability of the data and documentation made available to Koffeman Consult even if these were obtained from or via third parties. Koffeman Consult is not liable vis-à-vis the Customer and/or third parties for damage of any kind whatsoever caused by Koffeman Consult's use of any incorrect or incomprehensive data provided by the Customer.
- 5.4 If the services to be rendered under the terms of the Contract are provided on the Customer's premises or at another location designated by the Customer, the latter must ensure that Koffeman Consult is provided with office space and any other facilities which Koffeman Consult believes to be necessary or useful for executing the Contract and which comply with the relevant statutory requirements, free of charge. The term 'other facilities' will be deemed to include the use of a computer, printer, internet, email, copying and scanning equipment and telephone.

6. THIRD PARTIES

- 6.1 If the Customer wishes to call in third parties to execute the Order, it can do so only if it has agreed this with Koffeman Consult. The provisions of the preceding sentence will then be applicable *mutatis mutandis* to Koffeman Consult, unless Koffeman Consult has good grounds to believe that its (statutory) duty of due care entails that it is authorised to call in a third party without the Customer's prior permission.
- 6.2 If Koffeman Consult concludes or arranges for the conclusion of agreements with third parties in connection with the Order or pursuant to its (statutory) duty of due care, such agreements will be concluded on behalf and for account of the Customer, so that Koffeman Consult will serve as the Customer's direct or indirect representative in that case.
- 6.3 The Order will be executed exclusively on behalf of the Customer. Third parties can derive no rights from the services rendered by Koffeman Consult (such as opinions, advice or recommendations).

7. CONFIDENTIALITY

- 7.1 Unless the parties are subject to a statutory obligation to disclose information or unless the other party has given such permission, Koffeman Consult and the Customer will observe confidentiality in connection with the existence and details of the Order, the information provided by each of the parties and the results of the services.
- 7.2 This provision is not applicable to information which was already in the public domain before the Contract was concluded or information on third parties called in by the other party in connection with the Contract.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Koffeman Consult reserves all intellectual property rights for any creative products which it uses, has used, develops and/or has developed in connection with the execution of the Order, and for which it holds or can validate the copyrights or other intellectual property rights.
- 8.2 Unless the parties explicitly agree otherwise, the Customer guarantees that Koffeman Consult can use the documents, data and information provided to Koffeman Consult in connection with the Contract freely without infringing on any copyrights. Koffeman Consult is not liable vis-à-vis the Customer and/or third parties for damage of any kind whatsoever resulting from such use.

9. FEE

- 9.1 When issuing Orders to Koffeman Consult, the Customer accepts that Koffeman Consult will be entitled to raise its fees periodically, *inter alia*, on the basis of increases in wages and prices. The parties may agree on a fixed fee or percentage for the execution of the Contract or parts thereof, in the absence of which Koffeman Consult will invoice the Customer on the basis of the hours worked and/or for fixed sessions.
- 9.2 Unless the parties agree otherwise, Koffeman Consult's fee will not include travel costs and other expenses incurred in connection with the Contract and/or invoices or advances payable to third parties called in by Koffeman Consult.
- 9.3 All fees are exclusive of VAT and other surcharges which are or could be imposed by any government agency.

10. PAYMENT

- 10.1 The Customer must arrange payment within 14 days of the invoice date without any discount, deduction or the setting-off of debts. Payment must be made in Euros (€) by means of a transfer into a bank account to be designated by Koffeman Consult. Objections to any invoices issued by Koffeman Consult will not entitle the Customer to suspend its payment obligations.
- 10.2 If the Customer exceeds the period referred to above under 10.1 and if Koffeman Consult has summoned it in vain at least once to arrange payment within a reasonable period, the Customer will be in default by the operation of law. In that case, the Customer will be required to pay commercial or statutory interest over the outstanding sum as of the date on which payment became due until the date of payment in full. Any further collection costs, both judicial and extra-judicial, incurred after the Customer is in default will be for the Customer's account. The extra-judicial costs are hereby fixed at 15% of the principal sum plus interest, without prejudice to Koffeman Consult's right to claim payment of any extra-judicial costs which exceed this sum in practice. The judicial costs include all the costs incurred by Koffeman Consult, even if these exceed the statutory costs fixed by the courts (*liquidatietarief*).
- 10.3 If Koffeman Consult believes that the Customer's financial position and/or payment record give it reasonable grounds to do so, Koffeman Consult is authorised to require the Customer to pay an immediate advance and/or provide (additional) security without delay in a manner to be at Koffeman Consult's discretion. If the Customer fails to provide the desired security, Koffeman Consult is authorised to suspend the execution of the Order immediately, without prejudice to its other rights, in which case any sums payable by the Customer to Koffeman Consult, on any grounds whatsoever, will become immediately payable.
- 10.4 In the case of an Order issued jointly (in a consortium or via a joint venture), the Customers will be jointly and severally liable for the payment of any sums payable to Koffeman Consult under the terms of the Contract, to the extent that the services were rendered on behalf of the joint customers.

11. THE TERMINATION OF THE CONTRACT

- 11.1 The Customer and Koffeman Consult can terminate the Contract in the interim in writing at any time giving thirty (30) days' notice.
- 11.2 The parties can terminate the Contract immediately in the interim in writing without observing the aforementioned period of notice if the other party becomes insolvent, if a receiver, administrator or liquidator is appointed for its operations, if it agrees to a debt rescheduling programme, discontinues its activities on any other grounds or if either of the parties believes that there is a reasonable chance that the other party will become subject to any of the above.
- 11.3 If the Customer announces the (interim) termination of the Contract, Koffeman Consult is entitled to the compensation of any damage it incurs and of which it can provide reasonable evidence as a result of the loss of potentially-productive capacity, as well as of any other costs it is reasonably required to incur as a result of the interim termination of the Contract, unless the facts and circumstances leading up to the termination can be attributed to Koffeman Consult in full.
- 11.4 If Koffeman Consult announces the (interim) termination of the Contract, the Customer is entitled to require Koffeman Consult's co-operation in transferring the performance of the services to third parties, unless the facts and circumstances leading up to the termination can be attributed to the Customer in full. The Customer will be required to compensate any costs which Koffeman Consult is compelled to incur for the transfer of the services.
- 11.5 In the event of any (interim) termination, Koffeman Consult will remain entitled to the payment of the invoices for any services it has already rendered and/or costs it has already incurred in connection with the Contract. The preliminary results of the services rendered up until that date can be made available to the Customer under certain conditions.
- 11.6 In the event of any (interim) termination, the Customer must comply with any Contracts which Koffeman Consult has concluded with third parties for or on behalf of the Customer.
- 11.7 In the event of the termination of the Contract, each of the parties must return any goods, property or documents in its possession belonging to the other party without delay.

12. COMPLAINTS

- 12.1 Without prejudice to the provisions of clause 10.1 above, the Customer is required to notify Koffeman Consult in writing of any complaints concerning services rendered and/or any sums invoiced by Koffeman Consult within thirty (30) days of the date of the occurrence (or the date of despatch of the invoice) in connection with which it wishes to lodge a complaint or immediately after it has discovered the matter for which it wishes to lodge a complaint.

- 12.2 If and to the extent that Koffeman Consult believes that a complaint lodged by the Customer is well-founded, Koffeman Consult can adjust the sum of the invoice, remedy the work or re-perform the services concerned for its own account or reconstitute a part of any fee already paid by the Customer, at its discretion, without proceeding with the execution of the Order.
- 12.3 If the Customer fails to lodge a complaint within the period described in clause 12.1 above, it will forfeit all its rights and claims vis-à-vis Koffeman Consult, on any grounds whatsoever, in connection with the subject of the complaint or the period within which it could have lodged that complaint.

13. THE WAIVER OF RIGHTS

Koffeman Consult's failure to immediately enforce or validate any right or power will not prejudice or restrict its rights and powers under the Contract or the present Terms. The waiver of any clause or the terms of the Contract will be effective only if agreed in writing.

14. LIABILITY AND INDEMNIFICATION

- 14.1 The Customer can only hold Koffeman Consult liable for damage which the Customer suffers as a direct result of any default (*toerekenbare tekortkoming*) in the performance of the Contract which can be attributed to Koffeman Consult, to the exclusion of the provisions of section 7:407(2) of the Netherlands Civil Code. Liability for consequential or indirect damages is excluded.
- 14.2 Barring its serious or deliberate misconduct, Koffeman Consult's liability vis-à-vis the Customer (under the terms of and beyond the scope of the Contract) is under all circumstances restricted to the sum which its liability insurance pays out under those circumstances. If and to the extent that the aforementioned insurance does not pay out for any reason whatsoever or if such an insurance was not taken out, Koffeman Consult's liability will be restricted to the sum of the fee for which it has invoiced the Customer in connection with the Contract to date, to a maximum of 50,000 Euros. Koffeman Consult is not liable for any damage exceeding the sum referred to in this clause or damage other than that described above, and the Customer hereby indemnifies Koffeman Consult in full against such damage.
- 14.3 Barring its serious or deliberate misconduct, Koffeman Consult is not liable for, and the Customer must indemnify it in full at all times, against damage of any kind whatsoever caused as a result of defaults committed by third parties (irrespective of whether these had been called in by Koffeman Consult for or on behalf of the Customer), in connection with the Contract or its execution.
- 14.4 Barring its serious or deliberate misconduct, Koffeman Consult is not liable, and the Customer must indemnify it in full at all times, against damage of any kind whatsoever suffered by third parties in connection with the Contract or its execution.

14.5 The communications between the Customer and Koffeman Consult during the execution of the Order include email. Both Koffeman Consult and the Customer acknowledge that the use of email entails risks such as distortion, delays, viruses, interception and forgery. The Customer and Koffeman Consult hereby confirm that neither will be liable for any damage suffered by the other party or both parties as a result of the use of email. Both the Customer and Koffeman Consult will do everything reasonably possible, or refrain therefrom if appropriate, to avoid the occurrence of such risks.

15. LIMITATION PERIOD

Without prejudice to the provisions of clause 12.3 above, all claims and/or any right to lodge claims, on any grounds whatsoever, which the Customer may have vis-à-vis Koffeman Consult in connection with or pursuant to the Contract, the present Terms or otherwise, will expire if the claim is not lodged before the competent court within 12 months of the event which gave rise to that claim.

16. THE ASSIGNMENT OF THE CONTRACT

The Customer is not permitted to assign the Contract or parts thereof to third parties, unless Koffeman Consult consents to this explicitly. In the event of an assignment with Koffeman Consult's consent, the Customer will remain liable vis-à-vis Koffeman Consult for the obligations under the Contract and the Terms, together with that third party, unless the parties had explicitly agreed otherwise.

17. APPLICABLE LAW AND JURISDICTION

The Contract, the Terms and (all other) legal relationship(s) between Koffeman Consult and The Customer are subject to the laws of the Netherlands. The District Court of Rotterdam has jurisdiction to adjudicate on any disputes between Koffeman Consult and the Customer, unless the parties explicitly agree otherwise after the dispute has arisen.

18. FINAL CLAUSE

18.1 If it becomes impossible to invoke any clause of the Contract and/or the Terms, the relevant clause will at any rate be interpreted in such a way that it corresponds, in terms of significance, purport and content, with the original, to the extent possible, and in such a way that it can be invoked, all this without prejudice to the validity of the remaining provisions of the Contract and the Terms.

18.2 The parties hereby explicitly rule out the potential applicability of any general terms and conditions invoked by the Customer as a result of (the applicability of) the present Terms. The present Terms will always be deemed to have been invoked first in the sense of section 6:225(3) of the Netherlands Civil Code.

18.3 The present Terms have been drafted in Dutch and in English. In the event of any discrepancy or conflict in the interpretation of the purport or content of the present Terms, the Dutch text will prevail.

18.4 The present Terms have been filed with the Clerk of the District Court of Rotterdam under reference 66/2009.

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