



# General Terms & Conditions

Asiancy

5 January 2024

Asiancy is a proprietorship registered in *The Netherlands* under the Chamber of Commerce number; 88026213, by *Lorenzo R. Bartolo Veiga Pereira*, authorized *Managing Owner*, having its principal office located at *IJsselzicht 4, 8261 JJ, Kampen, The Netherlands* (hereinafter "**Agency**")

## 1. Generally

- 1.1 These General Terms and Conditions apply to every offer, quotation, and agreement between the Agency and a Counterparty to which the Agency has declared these General Terms and Conditions applicable, as these General Terms and Conditions have not been expressly deviated from by the parties in writing.
- 1.2 The present General Terms and Conditions also apply to agreements with the Agency, which require the involvement of third parties by the Agency.
- 1.3 These General Terms and Conditions are also written for the employees of the Agency and its management.
- 1.4 The applicability of any purchasing or other General Terms and Conditions of the Counterparty is expressly rejected.
- 1.5 If one or more provisions in these General Terms and Conditions are at any time wholly or partially void or voidable, then the other provisions of these General Terms and Conditions remain fully applicable. The Agency and the Counterparty will then consult to agree on new provisions to replace the void or voidable provisions, considering the purpose and meaning of the original provisions as much as possible.
- 1.6 If ambiguity exists regarding interpreting one or more provisions of these General Terms and Conditions, the interpretation must occur "*in the spirit*" of these provisions.
- 1.7 If a situation arises between the Agency and the Counterparty that is not governed by these General Terms and Conditions, this situation should be judged according to *the spirit* of these General Terms and Conditions.
- 1.8 If the Agency does not always require strict compliance with these General Terms and Conditions, this does not mean that the provisions thereof do not apply or that the Agency would, to any extent, lose the right to require strict compliance with the provisions of these General Terms and Conditions in other cases.

## 2. Quotations and Offers

- 2.1 All Quotations and Offers of the Agency are without obligation unless the Quotation demands a deadline for acceptance. A Quotation or Offer expires after 3 (three) months or if the services to which the Quotation or Offer relates is no longer available.
- 2.2 The Agency cannot be held to its Quotations or Offers if the Counterparty reasonably understands that the Quotations or Offers, or any part thereof, contains an obvious mistake or typographical error.
- 2.3 The prices stated in a Quotation or Offer include any taxes required by Dutch law and any expenses to be incurred in the context of the Agreement, including but not limited to travel and accommodation, shipping, and handling costs unless otherwise indicated.



- 2.4 If the acceptance (whether or not on minor points) deviates from what is included in the Quotation or the Offer, the Agency will not be bound by it. This deviating acceptance will only conclude the Agreement if the Agency indicates otherwise.
- 2.5 A composite Quotation or Offer does not obligate the Agency to perform part of the service at a corresponding part of the quoted price. Quotations or Offers do not automatically apply to future services.

### **3. Contract terms; delivery terms, performance, and modification of agreement; price increase**

- 3.1 The agreement between the Agency and the Counterparty is entered into indefinitely unless the nature of the agreement dictates otherwise or if the parties expressly agree otherwise in writing.
- 3.2 If a deadline has been agreed or specified for the delivery of specific services, this will never be a fixed deadline. The Counterparty must give the Agency written notice of default if a term is exceeded. The Agency must be given a reasonable period to perform the agreement still.
- 3.3 The Agency has the right to have (specific) work performed by third parties.
- 3.4 The Agency is entitled to execute the agreement in several phases and to invoice the part thus executed separately.
- 3.5 If the agreement is performed in phases, the Agency may suspend the performance of those parts belonging to a subsequent phase until the Counterparty has approved the results of the preceding phase in writing.
- 3.6 If the Agency requires information from the Counterparty for the performance of the agreement, the performance period will not commence until after the Counterparty has provided it to the Agency wholly and correctly.
- 3.7 If during the execution of the agreement, it appears that for a proper execution thereof, it is necessary to modify or add an addition to it, then the parties will timely and, in mutual consultation, adopt the agreement. Suppose the nature, scope, or content of the agreement, whether or not at the request or indication of the Counterparty, the competent authorities, et cetera, is changed, and the agreement is thereby changed in qualitative and/or quantitative respect. In that case, this may have consequences for what was initially agreed. As a result, the amount originally agreed upon may be increased or decreased. The Agency will give as much advance notice as possible. An amendment to the agreement may change the initially specified period of performance. The Counterparty accepts the possibility of amending the agreement, including the change in price and term of execution.
- 3.8 If the agreement is amended, including an addition, the Agency will be entitled to perform it only after the competent person within the Agency has agreed to it and the Counterparty has agreed to the price and other conditions stated for its performance, including the time to be determined for its performance. Failure to perform or not immediately perform the amended agreement will not constitute a breach of contract on the Agency's part. It will not constitute grounds for the Counterpart to terminate the agreement.
- 3.9 Without a default, the Agency can refuse a request to change the agreement if this could have consequences in qualitative and/or quantitative respect, for example, for the work to be performed or services to be delivered in that context.
- 3.10 If the Counterparty should default in the proper fulfillment of what it is obliged to do towards the Agency, the Counterparty will be liable for all damage (including costs) on the part of the Agency caused directly or indirectly as a result.



- 3.11 If the Agency agrees on a specific price when concluding the agreement, the Agency shall nevertheless be entitled to increase the price under the following circumstances, even if the price was not quoted initially, subject to reservations.
- If the price increase is the result of a change in the agreement;
  - If the price increase results from a power vested in the agency or an obligation imposed on the Agency by law and
  - In other cases, on the understanding that the Counterparty, who is not acting in the exercise of a profession or business, is entitled to dissolve the agreement using a written statement if the price increase exceeds 10% and takes place within 3 (three) months of the conclusion of the agreement unless the Agency is then still willing to perform the agreement based on what was initially agreed, or if it has been stipulated that the delivery will take place more than 3 (three) months after the purchase.

#### **4. Suspension, dissolution, and early termination of the agreement**

- 4.1 The Agency is authorized to suspend the fulfillment of the obligations or dissolve the agreement immediately and with immediate effect if:
- The Counterparty does not fulfill its obligations under the agreement or does not do so in full or in time;
  - After the conclusion of the agreement, the Agency has become aware of circumstances that give good reason that the Counterparty will not fulfill its obligations;
  - The Counterparty was requested after the agreement to provide security for the fulfillment of its obligations under the agreement, and this security is not provided or is insufficient;
  - If, due to the delay on the part of the Counterparty, the Agency can no longer be required to perform the agreement against the originally agreed conditions, the Agency is entitled to dissolve the agreement; and
  - If circumstances arise of such a nature that compliance with the agreement is impossible or cannot reasonably be required of the Agency to maintain the agreement unaltered.
- 4.2 If the dissolution is attributable to the Counterparty, the Agency will be entitled to be compensated for damages incurred directly and indirectly, including costs.
- 4.3 If the agreement is dissolved, the Agency's claims against the Counterparty are immediately due and payable. If the Agency suspends compliance with its obligations, it shall retain its claims under the Dutch law and the agreement.
- 4.4 If the Agency proceeds to suspend or dissolve on the grounds referred to in this article, it will not be obliged on that account in any way to pay compensation for damage and costs caused in any way whatsoever or to indemnify the Counterparty. In contrast, the Counterparty will be obliged to pay compensation or indemnify on account of breach of contract.
- 4.5 If the Agency terminates the agreement prematurely, the Agency will, in consultation with the Counterparty, arrange for the transfer of work still to be performed to third parties. This is unless the Counterparty can be blamed for the termination. The Counterparty will be charged for the transfer costs unless the early termination can be attributed to the Agency. The Agency will inform the Counterparty as much as possible about the scope of these costs in advance. The Counterparty will be obliged to pay these costs within the period specified by the Agency for that purpose unless the Agency indicates otherwise.



- 4.6 In case of liquidation, of (application for) suspension of payment or bankruptcy, of attachment - if and to the extent that the attachment has not been lifted within 3 (three) months - at the Counterparty's expense, of debt rescheduling or another circumstance as a result of which the Counterparty can no longer dispose freely of its assets, the Agency will be free to terminate the agreement immediately and with immediate effect or to cancel the service or agreement, without any obligation on its part to pay any compensation or indemnification. In that case, the Agency's claims against the Counterparty will be immediately due and payable.
- 4.7 If the Counterparty fully or partially cancels a service that has been placed, the service ordered or prepared for it, plus any costs of supply and delivery thereof and the working time reserved for the execution of the agreement will be charged in full to the Counterparty.

## **5. Force majeure**

- 5.1 The Agency is not obliged to fulfill any obligation to the Counterparty if he is prevented from doing so due to a circumstance that is not due to fault and is not for his account by the Dutch law, a legal act, or generally accepted practice.
- 5.2 In these General Terms and Conditions, force majeure is defined, in addition to its definition in the Dutch law and jurisprudence, as all external causes, foreseen or unforeseen, over which the Agency cannot exercise any control, but which prevent the Agency from fulfilling its obligations. The Agency is also entitled to invoke force majeure if the circumstance preventing (further) compliance with the agreement occurs after the Agency has fulfilled its obligation.
- 5.3 The Agency may suspend the obligations under the agreement during the period the force majeure continues. If this period lasts longer than 3 (three) months, each party shall be entitled to dissolve the agreement without any obligation to compensate the Counterparty for damages.
- 5.4 If, at the time of the occurrence of force majeure, the Agency has already partially fulfilled its obligations under the agreement or will be able to fulfill them, and independent value can be attributed to the part already fulfilled or to the part to be fulfilled respectively, the Agency will be entitled to invoice the part already fulfilled or to be fulfilled respectively separately. The Counterparty will be obliged to pay this invoice as if it were a separate agreement.

## **6. Payment and collection fees**

- 6.1 Payment should always be made within 14 (fourteen) days of the invoice date, in a manner indicated by the Agency in the currency invoiced, unless otherwise indicated in writing by the Agency. The Agency is entitled to invoice periodically.
- 6.2 If the Counterparty fails to pay an invoice in time, the Counterparty shall be in default by operation of Dutch law. The Counterparty shall then owe interest. The interest rate is equal to the interest rate fixed by the ECB. In other cases, the Counterparty owes interest of 1% per month unless the ECB's interest rate is higher. The interest on the amount due and payable will be calculated from the moment the Counterparty is in default until the payment is due in full.
- 6.3 The Agency shall be entitled to have the payments made by the Counterparty go first to reduce the costs, then to reduce the interest falling due, and finally to reduce the principal sum and the current interest.



- 6.4 The Agency may, without thereby being in default, refuse an offer of payment if the Counterparty designates a different service for the allocation of payment. The Agency may only accept full repayment of the principal sum if this includes the interest due and accrued and collection costs.
- 6.5 Objections to the amount of an invoice do not suspend the payment obligation.
- 6.6 If the Counterparty is in default or absence in the (timely) fulfillment of its obligations, then all reasonable costs to obtain satisfaction out of court shall be borne by the Counterparty. The extrajudicial costs will be calculated based on what is customary at that time in business practice. However, if the Agency has incurred higher costs for collection than were reasonably necessary, the actual costs incurred will be eligible for reimbursement. Any judicial and execution costs incurred will also be recovered from the Counterparty. The Counterparty will also owe interest on the collection costs owed.

## **7. Liability**

- 7.1 Should the Agency be liable; this liability shall be limited to what is regulated in this provision.
- 7.2 The Agency is not liable for damages of any nature whatsoever arising because the Agency has relied on incorrect and/or incomplete information provided by or on behalf of the Counterparty.
- 7.3 The Agency is only liable for direct damages.
- 7.4 Direct damage means exclusively:
- The reasonable costs incurred to determine the cause and extent of the damage insofar as the determination relates to damage within the meaning of these General Terms and Conditions;
  - Any reasonable costs incurred to have the Agency's defective performance conform to the agreement insofar as they can be attributed to the Agency; and
  - Reasonable costs incurred to prevent or limit damage, to the extent that the Counterparty demonstrates that these costs have resulted in limiting direct damage as referred to in these General Terms and Conditions.
- 7.5 The Agency shall never be liable for indirect damage, including consequential damage, loss of profit, missed savings, and damage due to business or other stagnation. In the case of a consumer purchase, this limitation shall not extend beyond that permitted under Article 7:24, paragraph 2 of the Dutch Civil Code.
- 7.6 Should the Agency be liable for any damage, the Agency's liability shall be limited to a maximum of three times the invoice value of the order, at least to that part of the order to which the liability relates.
- 7.7 The Agency's liability shall, in any case, always be limited to the amount paid by its insurer in the relevant case.
- 7.8 The limitations of liability in this article do not apply if the damage is due to intent or gross negligence by the Agency or its managerial subordinates.



## **8. Statute of limitations**

- 8.1 Notwithstanding the statutory limitation periods, the limitation period of all claims and defenses against the Agency and the third parties involved by the Agency in the execution of an agreement is 1 (one) month.
- 8.2 The provisions of article 10.1 do not apply to legal claims and defenses based on facts that would justify the assertion that the delivered services would not comply with the agreement. Such claims and defenses shall lapse 1 (one) year after the Counterparty has notified the Agency of such non-conformity.

## **9. Risk transfer**

- 9.1 The risk of loss, damage, or depreciation shall pass to the Counterparty at the time when goods and services are brought under the Counterparty's control.

## **10. Indemnification**

- 10.1 The Counterparty indemnifies the Agency against any claims of third parties, who suffer damage in connection with the execution of the agreement and the cause of which is attributable to others than the Agency.
- 10.2 If the Agency should be held liable by third parties for that reason, the Counterparty will be obliged to assist the Agency both extrajudicially and judicially and immediately do all that may be expected of it in that case. Should the Counterparty fail to take adequate measures, the Agency will be entitled to do so itself without notice of default. All costs and damages on the part of the Agency and third parties as a result will be entirely at the Counterparty's expense and risk.

## **11. Intellectual property**

- 11.1 The Agency reserves the rights and powers to which it is entitled under the Copyright Act and other intellectual laws and regulations. The Agency is entitled to use the knowledge gained by the execution of an agreement on its side for other purposes to the extent that no strictly confidential information of the Counterparty is brought to the knowledge of third parties.

## **12. Applicable law and disputes**

- 12.1 All legal relationships to which the Agency is a party shall be governed exclusively by Dutch law, even if an obligation is wholly or partially performed abroad or if the party involved in the legal relationship is domiciled there. The applicability of the Vienna Sales Convention is excluded.
- 12.2 The parties will only appeal to the court after they have made every reasonable effort to settle a dispute by mutual agreement.

## **13. Location and modification of terms and conditions**

- 13.1 These General Terms and Conditions are filed with the Chamber of Commerce in Zwolle.
- 13.2 Applicable is always the last filed version or the version valid at the time the legal relationship with the Agency was established.