

## **GENERAL TERMS AND CONDITIONS King Converting B.V. (CoC nr. 55610951)**

### **Article 1 Definitions**

The following definitions apply in these General Terms and Conditions:

**Contractor:** King Converting B.V., seated at (8211 AJ) Lelystad, Nikkelstraat 5, The Netherlands, registered with the Dutch Chamber of Commerce (Kamer van Koophandel) under number 55610951;

**Client:** the party with whom the contractor enters into an agreement for contract work; also, the party to whom the contractor has submitted a quotation;

**Agreement:** any agreement made between the contractor and the client, any change or supplement to such agreement(s), as well as any (legal) act preparatory to or in the performance of such agreement(s);

**Contract variations:** supplement to the agreed work, initiated by the client, leading to additional payment on top of the agreed price, or reduction of the agreed work, initiated by the client, leading to a deduction from the agreed price.

### **Article 2 General**

2.1 These General Terms and Conditions apply to any offer, quotation and agreement between contractor and client for which the contractor has declared these terms and conditions applicable, insofar as the parties have not expressly provided otherwise in writing.

2.2 These same General Terms and Conditions also apply to any agreement between the client and a third party that may affect the performance of the agreement between contractor and client.

2.3 No variation on these General Terms and Conditions is valid, unless it has been expressly agreed between the parties in writing.

2.4 The applicability of the client's general terms and conditions, if any, is expressly excluded.

2.5 If one or more of the provisions in these General Terms and Conditions prove to be void or are nullified, the remaining provisions will continue to apply to their full extent. If such be the case, the contractor and the client shall confer in order to agree on new provisions to replace the void or nullified provisions, taking into account, if and so far as possible, the purpose and tenor of the original provision(s).

### **Article 3 Offers, information and conclusion of agreements**

3.1 All offers and quotations by the contractor are free of obligation, unless the offer expressly states otherwise.

3.2 Any offer or quotation by the contractor remains valid for a period of thirty (30) days from the date of the offer, unless otherwise provided. Unless otherwise provided, the contractor may only be held to an offer or quotation, if the client has confirmed his acceptance in writing within thirty (30) days from the date of the offer.

3.3 If the client's acceptance deviates on any point (including evidently minor points) from the offer as it was submitted to the client, the contractor is not bound by the offer. No agreement exists on the basis of the deviating acceptance, unless the contractor declares otherwise in writing.

3.4 A compound offer or quotation does not oblige the contractor to perform part of the offered work for a proportional part of the quoted price.

### **Article 4 The client's obligations**

4.1 The client is obliged to supply the contractor promptly with all the information which the contractor deems necessary for the proper performance of the agreement, or which the client may reasonably be expected to consider necessary for the proper performance of the agreement.

4.2 The client takes responsibility for the correctness, completeness and reliability of the information supplied to the contractor, including information obtained from a third party. The contractor is not liable for damage of any kind as a result of actions based on incorrect or incomplete information supplied by the client.

4.3 If data, necessary for the performance of the agreement, is not supplied to the contractor in due time, the contractor is entitled to suspend performance of the agreement and to charge the client with the extra costs resulting from the delay in accordance with the contractor's usual rates.

4.4 The client shall ensure that any work to be done by third parties, which does not fall under the contractor's assignment, is performed in such a way and at such a time that the performance by the contractor is not delayed.

4.5 The client shall at all times enable the contractor to perform. If this requires admittance to locations or access to sources of information, to files or other data carriers controlled by the client, the client shall ensure unhindered access by the contractor for the duration of the performance.

4.6 The client shall supply the contractor with the materials or products to be processed in the agreed state and to have these materials or products insured against destruction, damage, fire and theft with a reliable insurance company.

4.7 The client shall also take out a (product) liability insurance for the benefit of the contractor.

#### **Article 5 Performance of the contract**

5.1 The contractor shall perform the contract to the best of his knowledge and ability and in accordance with the demands of good craftsmanship.

5.2 If and to the extent that the proper performance of the contract so requires, the contractor is entitled to have third parties carry out certain parts of the work, at the contractor's expense.

5.3 If it has been agreed that the contract shall be served in phases, the contractor may postpone performance of work belonging to a following phase until the client has approved the results of the preceding phase in writing.

5.4 The client indemnifies the contractor from possible claims by third parties who may suffer damage in connection with the performance of the contract.

#### **Article 6 Amendments and contract variations**

6.1 Amendments to (the performance of) the contract, required by the client after the work has been commissioned, respectively the contract established, must be submitted to the contractor in writing before the contractor has entered upon the performance of the agreement. Such amendments only become part of the agreement between contractor and client after a written acceptance by the contractor or if the contractor enters upon performance in accordance with the proposed amendments. If, in the contractor's estimation, amendments required by the client prevent the proper performance of the contract, the contractor is entitled to terminate the agreement out of court. In these circumstances the contractor is not liable for damage of any kind and extent. Any problem arising from amendments to the agreement required by the client is at the account and risk of the client.

6.2 If the contractor accepts amendments to the original agreement or enters upon performance in accordance with such amendments, the client is obliged to pay all resulting (extra) costs to the contractor as costs for supplementary work, without prejudice to other payment obligations on the part of the client arising from the agreement with the contractor.

6.3 If amendments as discussed in this article result in delay of the performance of the contract, the periods submitted by the contractor will be extended with the period of delay. The contractor is never liable to the client for any such delay.

6.4 If for any other reason the contractor thinks that supplementary work applies, he will inform the client in writing at the earliest opportunity. The contractor shall add an indication of the consequences to the completion period, as well as an indication of the costs associated with the supplementary work.

6.5 If the client has not objected to the supplementary work within four (4) working days after the receipt of the written notice by the contractor, as referred to in section 4, the client is taken to have accepted the supplementary work and the contractor is entitled to charge the client for the associated (extra) costs.

#### **Article 7 Periods, delivery and execution deadline**

7.1 The agreement between contractor and client is concluded for an indefinite period, unless the nature of the agreement dictates otherwise or the parties expressly agree otherwise in writing. If, for the completion of certain works, a period has been agreed within the duration of the contract, this period never constitutes a strict deadline.

7.2 If any period submitted by the contractor is exceeded, the contractor is not in default in this respect until the client has requested performance in writing, granting the contractor a reasonable time in which to fulfill his

obligations towards the client. This reasonable time will be at least half of the agreed period for the performance of the contract in question.

#### **Article 8 Prices and rates**

8.1 Unless parties have agreed otherwise in writing, prices and rates submitted by the contractor do not include turnover tax, possible freight costs and other possible costs and expenses. Prices and rates apply to the contract referred to in the order confirmation/quotation, in accordance with the stated specifications and periods.

8.2 Parties may agree a fixed price when concluding the agreement.

8.3 If the period of an order exceeds one (1) month, costs owed by the client may be charged on a weekly basis.

#### **Article 9 Payment and conditions of payment**

9.1 Unless parties have agreed otherwise, payment is due within thirty (30) days from the invoice date, in a manner to be determined by the contractor, in the invoice currency. All payment periods are to be regarded as strict deadlines, unless parties have agreed otherwise expressly in writing. The contractor is entitled to demand an advance payment which represents at least 50% of the total sum due by the client.

9.2 In the event of failure by the client to pay any amount due within the agreed term, the total sum immediately becomes due on demand.

9.3 Any entitlement to offset or suspended payment on the part of the entrepreneur client, under any title and for whatever reason, is expressly excluded.

9.4 In the event of non-payment, overdue or incomplete payment by the client, the client is in default without prior notice and is liable for either 1% interest per month or the statutory commercial interest, whichever is highest, over the outstanding invoice amount for the duration of the default. For the purposes of interest calculation a partial month shall be deemed a full month.

9.5 If the client is in default with regard to his (delayed) performance, all extrajudicial costs, calculated according to the Netherlands 2012 Decree on Collection of Extrajudicial Costs ('Besluit vergoeding voor buitengerechtelijke incassokosten 2012'), shall be charged to the client, without prejudice to other rights due to the contractor, such as the rights to damages or performance.

9.6 If the contractor, out of goodwill or for any other reason, has allowed the client postponed performance on any point of the agreement, the new period is to be regarded as a strict deadline.

9.7 In the event of legal debt rescheduling, liquidation, bankruptcy, seizure of goods or suspension of payment on the part of the client, all claims of the contractor against the client become immediately due.

#### **Article 10 Suspension and termination**

10.1 In the event of non-fulfilment, overdue or improper fulfilment on one or more points of the agreement by the client, including payment obligations, the contractor is entitled to suspend his obligations towards the client without prejudice to his other rights, until the client has performed the terms of the agreement to the full.

10.2 If the contractor has reason to suspect that the client will not be able to meet his obligations, the contractor is entitled to suspend his performance. If such be the case, the contractor shall request the client to provide security with regard to his performance by means of a declaration. If the client does not meet this request within fourteen (14) days from the date of the request, the contractor is entitled to terminate the agreement.

10.3 The contractor is furthermore entitled to terminate the agreement out of court, without prior notice of default, by means of a written extrajudicial statement, if:

- circumstances occur which by their nature make performance of the agreement impossible or, in reason and fairness, prevent the agreement from being properly carried out, or in any other way reasonably preclude the unaltered maintenance of the agreement;
- the client has been granted suspension of payment, third parties file for the client's bankruptcy, the client files for bankruptcy, the client offers his creditors a deed of arrangement or convokes a meeting of creditors (to that end), application of the Debt Rescheduling Act for Natural Persons ('Wet schuldsanering natuurlijke personen') is requested for or granted to the client;

- the client's company is liquidated, the client's entrepreneurial activities have de facto ceased or been moved to a location outside the country of establishment at the time the agreement was concluded.

10.4 In the event of termination of the agreement, the claims by the contractor on the client become immediately due. If the contractor suspends performance in accordance with these terms and conditions, he retains his other claims under the law and the agreement.

### **Article 11 Liability**

11.1 In the event of the contractor being liable, liability is limited to the provisions laid down in this Article.

11.2 If the contractor is liable to the entrepreneur client for direct damage, this liability is limited to the invoice amount or of such fraction as corresponds to the part of the contract that the liability relates to. In all cases liability is limited to a maximum equaling the amount that the contractor's insurer will pay in the occurring event.

11.3 Direct damage extends exclusively to:

- reasonable costs made to assess the cause(s) and extent of the damage, insofar as the assessment relates to damage in the sense of these terms and conditions;
- possible reasonable costs made to redress a faulty performance by the contractor, unless either the faults or the the costs may, in reason, not be attributed to the contractor;
- reasonable costs made to prevent or limit damage, insofar as the client can demonstrate that these costs have led to a limitation of direct damage in the sense of these general terms and conditions.

11.4 The contractor is not liable for any present or future damage suffered by the entrepreneur client (or third parties) of any nature or extent, as a result of, during or in connection with the performance of the contract, including damage to property owned by the client or third parties, nor for indirect damage, including for example trade losses, consequential loss or damage, loss of profit, lost savings and damage due to business interruption.

11.5 The contractor is never liable to the entrepreneur client for damages or costs of any nature or extent that are connected with or result from acts, omissions, faults or lack of quality in the work of third parties that the contractor has engaged in the performance of the agreement.

11.6 An exception to section 11.5 occurs, if the contractor has acted intentionally or with gross negligence tantamount to intention. A series of interconnected damage claims/occurrences is to be regarded as one damage claim/occurrence.

11.7 If in a given case no invoice has as yet been sent to the client, "invoice amount" in the preceding text shall be read as "the agreed fixed price or usual rates that would be charged to the client for that part of the work performed in which the cause of the damage is to be found".

11.8 The client grants the contractor indemnity from all claims by third parties for damage in connection with the contractor's performance of the agreement(s), as well as damage resulting from the (i)legitimate use or the (ii)legitimate application of the processed materials or products, unless it is established in a court of law that such claims result from intentional acts or omissions or gross negligence tantamount to intention on the part of the contractor and, in addition, the client proves himself to be beyond reasonable blame.

11.9 The materials or products to be processed remain fully at the risk of the client for the duration of the performance of the agreement.

11.10 The contractor does expressly not assume liability for recommendations or advice regarding the use of processed materials or products, nor regarding the functionality, demonstrated or assumed, of the (end) product.

### **Article 12 Force majeure**

12.1 In the event of enduring force majeure the contractor is entitled to terminate the agreement out of court by means of a written declaration without incurring liability towards the client for any damages suffered by the client, of any nature or extent.

12.2 In the event of temporary force majeure the contractor is entitled to extend the periods for the performance of the contract with the duration of the temporary obstruction. If said obstruction continues for longer than six (6) months, the contractor may demand (partial) termination of the agreement without incurring liability to the client for damages and without prejudice to the client's obligations (of payment) with regard to the part of the agreement that

the contractor has by then completed.

12.3 If, at the onset of the force majeure, the contractor has already partially fulfilled his obligations or will only be able to fulfill part of his obligations, the contractor is entitled to invoice the completed part of the agreement or part to be completed separately.

### **Article 13 Intellectual property**

13.1 Without prejudice to the other provisions in these General Terms and Conditions, the contractor retains the rights and powers awarded by the Copyright Law ('Auteurswet') and other laws and regulations concerning intellectual property.

13.2 All goods sold or produced or documents supplied by the contractor whose intellectual property belongs to the contractor, such as written advice, flyers, brochures, images, written agreements, offers, tenders, designs, sketches, drawings, software, models et cetera, remain the property of the contractor or his suppliers or producers, regardless of whether the client is charged for their production. They are exclusively meant for use by the client for the purpose for which they were made available. These goods or documents (belonging to the contractor or his suppliers or producers) may not be used by the client for any other purpose, nor be copied or made public, nor be reproduced, processed or edited, nor be changed or sold on to third parties or brought to their knowledge, unless with prior written permission by the contractor. The client remains fully liable for all damages, including loss of profit and the cost of producing the relevant designs, models et cetera, caused by or connected with any infringement of said property rights. The client shall immediately inform the contractor of any infringement of the rights referred to in section 13.1 known to him.

13.3 The client is obliged to return to the contractor the goods or documents referred to in section 13.2 upon first request by the contractor, within the stated period. The client remains fully liable for all damage in connection with the overdue return of the relevant goods or documents supplied to him.

13.4 If the contractor produces goods on the basis of drawings, samples, models, designs, sketches or other instructions by or on behalf of the client, the contractor guarantees that such goods remain free of intellectual property rights. The client grants the contractor indemnity from any connected claim by third parties.

### **Article 14 Complaints**

14.1 The client shall notify the contractor in writing of complaints about the work performed by the contractor within eight (8) days from the date of discovery. The notice of default must contain a description of shortcomings and faults in as much detail as possible, so that the contractor may respond adequately.

14.2 Complaints about the contractor's performance of the agreement never in themselves entitle the client to suspend payment obligations to the contractor.

14.3 If the contractor deems a complaint to be valid, the contractor is entitled to perform the agreement anew or, alternatively, to resolve the complaint or have the complaint resolved in another manner.

14.4 If the client is or remains of the opinion that the contractor has failed in his timely, complete or proper fulfilment of the contract, the client shall immediately give notice to the contractor, in writing by registered mail, in accordance with section 14.1. The client shall assert the related claim in law by means of a summons within twelve (12) months from the date of the aforementioned notice or within twelve (12) months from the date on which a notice should have been served, failing which the client shall forfeit rights and claims in the matter through expiry of the relevant term.

### **Article 15 Disputes**

15.1 All disputes resulting from or connected with the legal relationships between the contractor and the client that are subject to the provisions in these General Terms and Conditions shall be put before the competent court in the district where the contractor has his seat, to the exclusion of other courts, unless mandatory law provides otherwise. The contractor is entitled to deviate from this jurisdiction provision and choose instead to apply general statutory rules governing jurisdiction.

15.2 Parties may agree on a different form of dispute settlement in writing.

**Article 16 Applicable law**

All legal relations between contractor and client are exclusively governed by the law of the Netherlands.

**Article 17 Conversion**

If and insofar as any provision in these General Terms and Conditions may not be invoked on the grounds of reason and fairness or because it is to be deemed unreasonably onerous, such provision shall be taken to have a meaning that corresponds as closely as possible to the original meaning in contents and tenor, so that the new meaning may instead be invoked.

**Article 18 Partial nullity**

Should any provision in these General Terms and Conditions not be applicable or be contrary to public order or the law, such provision alone must be considered null and void, leaving the validity of the other provisions in these General Terms and Conditions unaffected.

**Article 19 Continued application**

Those provisions in the agreement between the contractor and the client which are expressly or implicitly intended to remain in force after the contract has been completed, shall do so and continue to bind both parties.

These General Terms and Conditions shall apply to all offers, quotations, invoices, orders, deliveries, services and other activities by the contractor.

These General Terms and Conditions will be made available upon first request, free of charge.

These General Terms and Conditions were filed with the Chamber of Commerce (Kamer van Koophandel) under number 55610951 on September 12, 2016.