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## **General Terms and Conditions De Heren Van Werk**

### **Article 1. Definitions.**

In these General Terms and Conditions, the following terms will have the following meaning, unless explicitly indicated otherwise:

- De Heren Van Werk: The company De Heren Van Werk and its partners Mr M. van Dijk and Mr E. Backx, Customer to the Agreement to which these general terms and conditions apply;
- Services: all work, advice and other services performed by De Heren Van Werk in the context of the Agreement;
- Customer: the party with whom De Heren Van Werk has entered into an agreement;
- Agreement: the agreement between the Customer and De Heren Van Werk, as well as any subsequent agreements or assignments, to which these general terms and conditions apply.

### **Article 2. Applicability of these terms and conditions**

1. These conditions apply to every offer, quotation and agreement between De Heren Van Werk and a Customer, to which De Heren Van Werk has declared these conditions applicable, to the extent that these conditions have not been expressly deviated from by the parties concerned.
2. Any deviations from what is determined in these general terms and conditions shall only be valid if explicitly agreed in writing.
3. The applicability of any purchase or other general terms and conditions of the Customer is categorically rejected.
4. These general terms and conditions also apply to all agreements with De Heren Van Werk, for the fulfilment of which third parties are involved.
5. If one or more provisions of these general terms and conditions are declared invalid or annulled, the remaining provisions will remain fully applicable. De Heren Van Werk and the Customer will then enter into consultation to agree on new provisions to replace the invalid or annulled provisions, taking into account as much as possible the purpose and meaning of the original provision(s).

### **Article 3. Quotes**

1. All offers and/or quotations by De Heren Van Werk are completely non-binding and are based entirely on the information provided by the Customer for that purpose, whereby the Customer guarantees that essential information for the set-up of the assignment has been provided.
2. An agreement between De Heren Van Werk and the Customer is established by the Customer signing a quotation issued by De Heren Van Werk for approval.
3. An agreement between De Heren Van Werk and the Customer is also established by virtue of the fact that De Heren Van Werk has started to carry out or has carried out the assignment provided by the Customer. In such an event, the content of the agreement is determined by the quotation issued by De Heren Van Werk.
4. Amendments to a concluded agreement are only effective if they have been agreed in writing by the Customer and De Heren Van Werk.

### **Article 4. Execution of the agreement**

1. De Heren Van Werk shall fulfil the agreement to the best of its understanding and ability and in accordance with the requirements of good workmanship. De Heren Van Werk is under an obligation of performance.
2. If the agreement was entered into with a view to performance by a specific person, De Heren Van Werk will always be entitled to replace this person by one or more other persons with the same qualifications.
3. If and to the extent required for the effective execution of the agreement, De Heren Van Werk has the right to have certain activities carried out by third parties. The Customer will not issue any assignments, orders or instructions to the third parties engaged by De Heren Van Werk without consulting De Heren Van Werk first.
4. The Customer shall ensure that all information, which De Heren Van Werk indicates to be necessary or which the Customer should reasonably understand to be necessary for the fulfilment of the agreement, is provided to De Heren Van Werk in good time. If the data required for the fulfilment of the agreement are not provided to De Heren Van Werk on time, De Heren Van Werk has the right to suspend the fulfilment of the agreement and/or charge the extra costs resulting from the delay to the Customer at the usual rates.



5. De Heren Van Werk is not liable for damage of any kind, incurred because De Heren Van Werk relied on incorrect and/or incomplete information provided by the Customer. The Customer shall indemnify De Heren Van Werk against any claims by third parties who suffer damage in connection with the fulfilment of the order which is attributable to the Customer.
6. If it has been agreed that the agreement will be fulfilled in phases, De Heren Van Werk may suspend the fulfilment of those parts belonging to a subsequent phase until the Customer has, in writing, approved the results of the preceding phase.

#### **Article 5. Execution and delivery period**

1. If, within the duration of the agreement, a deadline has been agreed upon within for the completion of certain tasks or for the delivery of Services, this shall not be seen as a definite deadline, unless expressly agreed otherwise. If the fulfilment or delivery period is exceeded, the Customer must therefore give De Heren Van Werk written notice of default.
2. The fulfilment or delivery period starts as soon as the agreement has been concluded and all data necessary for the commencement of the fulfilment of the work or delivery of the Services are in the possession of De Heren Van Werk. The Customer is obliged to notify De Heren Van Werk in good time of all data and optional provisions required for the progress of the work.
3. If no time for commencement of the work has been agreed, De Heren Van Werk is free to determine the time of commencement at its own discretion. The Customer guarantees that De Heren Van Werk will have access to the location where the agreed work is to be carried out and/or the data needed to carry out the work at the commencement time it chooses.
4. If the Customer does not provide De Heren Van Werk with access or data or does not otherwise enable De Heren Van Werk to undertake the agreed work, the Customer will be in default by operation of law and the Customer will be obliged to compensate De Heren Van Werk for all losses incurred by De Heren Van Werk as a result of not being able to perform the agreed work, including in any case, but not exclusively, the costs of third parties engaged by De Heren Van Werk.

#### **Article 6. Cancellation or amendment of the agreement**

1. If the Customer cancels the agreement entered into with De Heren Van Werk, the Customer will owe De Heren Van Werk a flat-rate amount of compensation equal to 30% of the agreed price, without prejudice to De Heren Van Werk's right to compensation for all losses it suffers as a result of the cancellation, such as costs incurred by De Heren Van Werk and loss of profit to the extent that these exceed the aforementioned 30%.
2. During the fulfilment of the agreement, if it is proven that for a proper performance it becomes necessary to change or supplement the work to be performed, the parties will promptly and in mutual consultation adjust the agreement accordingly.
3. If the parties agree to amend or supplement the agreement, this may affect the time of completion of fulfilment. De Heren Van Werk will inform the Customer of this as soon as possible.
4. If the amendment or supplement to the agreement has financial and/or qualitative consequences, De Heren Van Werk will inform the Customer accordingly.
5. If a fixed fee has been agreed, De Heren Van Werk will indicate to which extent the amendment or supplement to the agreement will result in an increase of this fee.

#### **Article 7. Intellectual property**

1. The Heren Van Werk expressly reserves all intellectual property rights and any powers arising from these. All documents, such as reports, advice, quotations, etc., produced by De Heren Van Werk in the context of the Agreement remain its exclusive property, regardless of whether they were made available to the Customer or to third parties.
2. To the exclusion of all others, De Heren Van Werk has the right to reproduce and/or disclose and reproduce its documents, such as reports, advice, quotations, etc., irrespective of whether they have been made available to the Customer or to third parties and irrespective of whether they have been drawn up together with the Customer.



Where necessary, the Customer assigns any intellectual property rights to jointly developed documents to De Heren Van Werk free of charge.

3. All documents provided by De Heren Van Werk, such as reports, advice, quotations, etc., are exclusively intended to be used by the Customer and may not be reproduced, disclosed, or brought to the notice of third parties by the Customer without the prior approval of De Heren Van Werk. The Customer is not authorised to have the fulfilment of an offer by De Heren Van Werk, or any part thereof, carried out or replicated by third parties without the express written consent of De Heren Van Werk.
4. Without the written consent of De Heren Van Werk, documents provided by it, such as reports, advice, quotations, etc., may not be reproduced, shown to third parties or otherwise made available for use.
5. Should the Customer act contrary to what is stipulated in this article, the Customer shall owe De Heren Van Werk an immediately payable penalty of € 5,000.00 and shall also owe De Heren Van Werk an amount equal to 30% of the amount of the quotation made by De Heren Van Werk, which amount the Customer shall pay to De Heren Van Werk at their first request. This payment does not transfer ownership and possible intellectual property rights to the Customer. These will remain with De Heren Van Werk.

#### **Article 8. Complaint terms**

1. The Customer must report any complaint about the services provided by De Heren Van Werk to De Heren Van Werk in writing within 30 days of discovering the complaint. After the expiry of that period, De Heren Van Werk is no longer obliged to address any complaint.
2. Any claim for damages shall be forfeited if not brought to court within one year from the day on which the agreement was terminated by completion or cancellation.

#### **Article 9. Fee**

1. The parties may agree to a fixed fee when the agreement is concluded. The fixed fee is exclusive of VAT, and other government levies, as well as any costs to be incurred in the context of the agreement, office expenses, travel and accommodation expenses, third-party costs, consultants, postage and similar costs. These costs will always be charged to the Customer separately, itemised where possible.
2. If no fixed fee is agreed, the fee will be determined based on the number of hours worked. The fee is calculated according to De Heren Van Werk's usual hourly rates, applicable for the period in which the work is performed, unless a different hourly rate has been agreed. The hours worked by De Heren Van Werk will be charged monthly.
3. Any cost estimates are exclusive of VAT, and other government levies, as well as any costs to be incurred in the context of the agreement, agency costs, travel and accommodation expenses, third-party costs, consultants, shipping costs and similar, unless otherwise indicated. These costs will always be charged to the Customer separately, itemised where possible.
4. If De Heren Van Werk agrees to a fixed fee or hourly rate for the Customer, De Heren Van Werk is nevertheless entitled to increase this fee or rate. De Heren Van Werk may pass on, among other things, but not limited to, increases in the rates of wages or increases in the rates of third parties engaged by De Heren Van Werk for the fulfilment of (part of) the agreement. Such an increase can only be charged to the Customer if it is communicated before the effective date of the contract. Furthermore, De Heren Van Werk may increase the fee if, during fulfilment of the work, it turns out that the originally agreed or expected amount of work was underestimated to such an extent and this is not attributable to De Heren Van Werk, that De Heren Van Werk cannot reasonably be expected to perform the agreed work for the originally agreed fee.
5. De Heren Van Werk's rates may be adjusted annually.

#### **Article 10. Payment**

1. Invoices sent by De Heren Van Werk must be paid within 30 days of the invoice date by transferring the amount due to the bank account number specified on the invoice in the name of De Heren Van Werk.
2. After the expiry of 30 days from the invoice date, Customer shall be in default by operation of law. From the moment the Customer is in default, De Heren Van Werk is entitled to suspend its obligations under the Agreement.



3. The Customer shall owe interest of 1% per month from the time of default on the amount due, accordingly 12% per year, unless the statutory commercial interest rate is higher, in which case the statutory commercial interest rate shall be due.
4. Any payments made by the Customer always serve to settle all interest and costs due in the first place, and in the second place the longest outstanding payable invoices, even if the Customer states that the payment relates to a invoice of a later date.
5. Payment shall be made without any discount or set-off.

#### **Article 11. Collection charges**

1. If the Customer is in default, all reasonable costs incurred to obtain collection outside court shall be borne by the Customer.
2. All extrajudicial collection costs incurred by De Heren Van Werk to secure fulfilment of the Customer's obligations shall be borne by the Customer. These costs are calculated according to the following collection rate, as recommended by the Nederlandse Orde van Advocaten, with a minimum of €40.00 per unpaid invoice:
  - 15% of the principal amount of the debt over the first € 2.500 of the claim;
  - 10% of the principal amount of the debt over the next € 2.500 of the claim;
  - 5% of the principal amount of the debt over the next € 5.000 of the claim;
  - 1% of the principal amount of the debt over the next € 190.000 of the claim;
  - 0.5% over the excess of the principal amount with a maximum of € 6.775
3. The Customer shall also owe statutory commercial interest on the collection costs incurred.

#### **Article 12. Liability**

1. De Heren Van Werk is only liable for damage that is a direct consequence of an attributable failure by De Heren Van Werk to fulfil its obligations under the Agreement.
2. Only damage for which De Heren Van Werk is insured, or should reasonably have been insured, qualifies for compensation.
3. Where it is not possible for De Heren Van Werk, at the time of entering into the Agreement, to take out insurance as referred to in paragraph 2 or to renew it under reasonable conditions thereafter, compensation for damages is limited to the amount charged by De Heren Van Werk for the Agreement (excluding VAT).
4. In the event that the insurer does not pay out or the damage is not covered by the insurance, De Heren Van Werk's liability is limited to a maximum of the amount of the fee due over the period in which the damage occurred.
5. Notwithstanding the fourth paragraph, for assignments with a duration of more than three months, the liability is further limited to the fee due over the previous three months.
6. De Heren Van Werk shall only be liable for direct damage. Direct damage means:
  - any reasonable costs incurred to determine the cause and extent of the direct damage;
  - any reasonable costs incurred to make the defective performance of De Heren Van Werk conform to the agreement, unless these cannot be attributed to De Heren Van Werk;
  - reasonable costs incurred to prevent or limit damage, provided that the Customer demonstrates that these costs have actually resulted in the limitation of direct damage.
7. De Heren Van Werk is never liable for indirect damage, including consequential damage, loss of profit, missed savings and damage due to business stagnation.
8. If certain parts of the agreement are fulfilled by third parties, De Heren Van Werk is not liable for these parts and for the actions of these third parties.

#### **Article 13. Termination and Dissolution**

1. If De Heren Van Werk has entered into an agreement with the Customer with a term longer than 1 month, each of the parties may terminate this long-term agreement at the end of a calendar month, subject to a notice period of 1 month.
2. De Heren Van Werk is also authorised, without prejudice to De Heren Van Werk's right to claim full compensation, to suspend the fulfilment of its obligations and/or to dissolve the agreement if:
  - The Customer does not fulfil or does not fully fulfil its obligations under the agreement;



- Circumstances which come to the attention of De Heren Van Werk after the agreement has been concluded give De Heren Van Werk good reason to fear that the Customer will not fulfil his obligations;
  - During the process of concluding the agreement, De Heren Van Werk has asked the Customer to provide security for fulfilment and this security has not been provided or is insufficient;
  - The Customer applies for suspension of payments, is declared bankrupt or transfers all or part of its business to third parties, liquidates or shuts down.
3. Furthermore, De Heren Van Werk is authorised to dissolve the agreement if circumstances arise of such a nature that unamended fulfilment of the agreement is impossible or, according to standards of reasonableness and fairness, can no longer be required from De Heren Van Werk.
  4. If the agreement is dissolved, all De Heren Van Werk's claims are immediately due and payable. In the event of dissolution, De Heren Van Werk retains a claim to payment by the Customer of the invoices for work performed up to the time of dissolution.

#### **Article 14. Force Majeure**

1. Force majeure is understood to mean circumstances which prevent the fulfilment of the agreement, and which cannot be attributed to De Heren Van Werk. This will include (if and insofar as these circumstances make fulfilment impossible or unreasonably difficult): cyber disasters, pandemics, and government measures that prevent performance, strikes in companies with which De Heren Van Werk has entered into agreements for the fulfilment of the agreement, as well as the case that a person engaged by De Heren Van Werk is mentally or physically prevented from carrying out the agreed work.
2. De Heren Van Werk is also entitled to invoke force majeure if the circumstance preventing (further) fulfilment occurs after De Heren Van Werk should have fulfilled its commitment.
3. During the period of force majeure, De Heren Van Werk's obligations are suspended. In the event the period in which fulfilment of the obligations by De Heren Van Werk is not possible due to force majeure lasts longer than 1 month, both parties are authorised to dissolve the agreement without there being any obligation to pay damages.
4. If De Heren Van Werk has already partially fulfilled its obligations when force majeure occurs, or can only partially fulfil its obligations, it is entitled to separately invoice the part already performed or the part that can be performed, and the Customer is obliged to pay this invoice as if it were a separate order.

#### **Article 15. Confidentiality, Privacy and (Dutch) AVG: General Data Protection Regulation.**

1. De Heren Van Werk considers it very important to treat its Customer's and Client's privacy with great care. For information on how De Heren Van Werk achieves this, please refer to the privacy statement on the website.
2. De Heren Van Werk processes personal data carefully and appropriately, and in compliance with applicable privacy and data protection laws and regulations, including (but not limited to) the General Data Protection Regulation (GDPR). Where the Customer collects and provides personal data to De Heren Van Werk, the Customer guarantees to De Heren Van Werk that such collection and provision is lawful.
3. Except where required by law, both parties are obliged to keep all confidential information obtained from each other or from other sources in the context of their agreement confidential. Information is considered confidential if this has been communicated by the other party or if this derives from the nature of the information. This confidentiality obligation remains in force even after termination of the agreement
4. If and to the extent that De Heren Van Werk processes personal data on behalf of the Customer in the context of the execution of the agreement, the Customer acts as controller and De Heren Van Werk as processor within the meaning of the AVG. In that case, the parties are obliged to conclude a separate processing agreement in accordance with Article 28 AVG.
5. To the extent that De Heren Van Werk processes personal data for its own purposes (for example, Customer and Client contact details), De Heren Van Werk acts as an independent controller and processes this data in accordance with the AVG and its privacy statement.
6. De Heren Van Werk takes appropriate technical and organizational measures to protect personal data against loss or any form of unlawful processing, in accordance with Article 32 AVG.
7. If a breach occurs in connection with personal data, De Heren Van Werk will inform the Customer immediately, but no later than within 48 hours, if this affects the protection of personal data or the privacy of those involved.



8. De Heren Van Werk does not store personal data longer than necessary for the purpose for which it was collected or to the extent required by law. A minimum retention period of seven years applies for tax administration.
9. The Customer guarantees compliance with the rights of data subjects (access, rectification, deletion, restriction, objection, data portability) in accordance with the AVG. De Heren Van Werk provides the Customer with all cooperation that is reasonably necessary to comply with requests from those involved.

**Article 16. Applicable law and dispute resolution**

1. Any agreement between De Heren Van Werk and the Customer is exclusively governed by Dutch law.
2. Notwithstanding the legal requirements for the competence of the civil court, any dispute between the Customer and De Heren Van Werk will be resolved by the Rechtbank Zeeland West Brabant.

**Article 17. Amendment**

1. Amendments to the agreement and deviations from these general terms and conditions will only be effective if they have been agreed in writing between De Heren Van Werk and the Customer.
2. De Heren Van Werk reserves the right to change the contents of these terms and conditions at any time. Amended general terms and conditions shall not become applicable until after these changes have been communicated to the Customer and the Customer has not objected to them in writing within five days, providing its reasons.

These general terms and conditions have been provided to the Customer by De Heren Van Werk prior to the conclusion of the agreement, are further available for review at the offices of De Heren Van Werk and will be sent free of charge to the Customer on first request. They can be found on the internet at [www.deherenvanwerk.nl](http://www.deherenvanwerk.nl).