

AWVN General Terms and Conditions as at 1 February 2017

1. Definitions

- 1.1. AWWN: the association with full legal capacity Algemene Werkgeversvereniging Nederland (the Netherlands General Employers' Association), established in accordance with the articles of association in The Hague.
- 1.2. Client: the legal entity which has entered into a contract with AWWN for the performance of an Order and/or the supply of a Product and/or Service.
- 1.3. Parties: AWWN on the one part and the Client on the other part.
- 1.4. Order: a contract within the meaning of Article 7:400 et seq. of the Civil Code, under the terms of which AWWN undertakes to carry out work for the benefit of a Client, including activities that were not explicitly requested by the Client.
- 1.5. Product and/or Service: an AWWN (IT) Product and/or Service and/or a Third Party Product and/or Service provided by AWWN, the resulting facilities and the associated activities
- 1.6. Third Party Product and/or Service: an (IT) Product and/or Service provided by AWWN, the resulting facilities and the associated activities originating from third parties

2. Applicability

- 2.1. The AWWN General Terms and Conditions are applicable to all quotations and Orders placed with AWWN, the advice and Products and/or Services it provides, as well as other activities.
- 2.2. A departure from the AWWN General Terms and Conditions may only be made further to a written agreement.
- 2.3. If any of the clauses of the AWWN General Terms and Conditions are null and void or rendered invalid, all the other provisions shall remain in full force.
- 2.4. Unless expressly agreed otherwise in writing, AWWN precludes the applicability of the Client's purchase conditions or other conditions.

3. General

- 3.1. AWWN will carry out all Orders to the best of its ability. Unless agreed otherwise in writing, an Order has the character of a best effort commitment.
- 3.2. Whether on request or not, the Client shall place at AWWN's disposal all the information that it knows or should reasonably know is necessary for a quotation to be made or for the Order to be carried out.
- 3.3. If Client denotes several (legal) persons or enterprises, these will be jointly and severally liable for the fulfilment of all the obligations arising from the contract(s) concluded with AWWN.

- 3.4. AWWN may use the Client's name, and an indication of the assignment carried out for this Client or the Product and/or Service provided, in publications.

4. Establishment of an order

- 4.1. An order comes into being further to:
 - 1 AWWN's acceptance of an order placed by the Client;
 - 2 If applicable - acceptance by the Client of a quotation made by AWWN.

5. Order performance

- 5.1. Orders are accepted by AWWN heedless of Articles 7:404 and 7:407, second paragraph of the Civil Code. The responsibility for the choice and possible replacement of the employee of AWWN entrusted with carrying out the Order rests with AWWN.
- 5.2. The parties' mutual agreement is required in the event of third parties being involved or deployed in the performance of an Order.

6. Duration and end of an order and approval of services rendered

- 6.1. In addition to the efforts made by AWWN, the duration of the Order may be influenced by all kinds of factors, including the quality of the information provided and the cooperation given. Lead times within which activities should be completed are only deadlines if this is agreed in writing.
- 6.2. The Client agrees that the time plan of an Order may change if between times the parties agree on a change to the order's content, approach or organisation.

7. Termination of an Order

- 7.1. The parties have the power to terminate an Order (prematurely) if, after a written notice of default, the other party continues to be materially remiss in the Order performance duties for which it is accountable. The terminating party shall not be obliged to pay any compensation.
- 7.2. The parties have the power to terminate an Order (prematurely) if the other party is granted a suspension of payment, if a petition is filed for its liquidation, or if the other party's company is discontinued or wound up other than for the purposes of corporate reconstruction or amalgamation. The terminating party shall not be obliged to pay any compensation.
- 7.3. If the Client terminates an Order (prematurely) for a reason other than those mentioned above, the latter shall be liable for payment of the agreed fee for the work performed up until

termination, as well as [60%](#) of the (remaining) anticipated order amount.

8. Provision of a Product and/or Service

- 8.1. When providing a Product and/or Service, the applicable terms of use form an integral part of the AWWN General Terms and Conditions.
- 8.2. If AWWN provides a Third Party Product and/or Service or makes use of a Third Party Product and/or Service in the fulfilment of its obligations arising from a contract, AWWN is not responsible for that Third Party Product and/or Service, unless otherwise agreed in writing.
- 8.3. If AWWN supplies a Third Party Product and/or Service to the Client, any general terms and conditions of the third parties concerned also apply in addition to the AWWN General Terms and Conditions. AWWN will issue a copy of these at the Client's request, in the same format and the same language in which it received them.

9. Quotations

- 9.1. Quotations made by AWWN are valid for 30 days.
- 9.2. The Client is responsible for the accuracy and completeness of the data it gives AWWN, or which AWWN is given on its behalf, on the basis of which AWWN draws up its quotation.

10. Rates and payment

- 10.1. The rates applied by AWWN are inclusive of all usual costs, including costs of secretarial services.
- 10.2. For activities outside AWWN's office, travel and waiting time fees are charged at the applicable hourly rate.
- 10.3. Any expenses for foreign travel, excessive photocopying costs and postage charges and any other non-standard or excessive costs are charged separately.
- 10.4. The AWWN executive committee fixes the rates. Price adjustments that have been decided on also apply to orders that are underway.
- 10.5. AWWN will bill the amounts owned by the Client on a monthly basis in a properly itemised statement, unless a different period has been agreed in writing.
- 10.6. Annual or periodic payments are - unless otherwise agreed in writing - due as an advance at the time of the establishment of the contract between the Parties and will thereafter be billed to the Client prior to each new year or each other period for which the contract continues between the Parties, in a properly itemised statement.
- 10.7. The Client will pay the amounts due within 30 (thirty) days of the invoice date, without any entitlement to discount, offsetting or postponement on any account whatsoever. Objections to the invoice must be brought to AWWN's attention, in writing and stating reasons, within 30 calendar days of the invoice date.

- 10.8. All prices are exclusive of VAT and exclusive of any other levies charged by the government. The amounts payable will be billed inclusive of VAT and inclusive of any government levies.
- 10.9. If the Client fails to honour any payment commitment, the Client shall be in default without any further warning or notice of default being necessary. The Client owes AWWN the judicial and extrajudicial costs of collecting all amounts payable to AWWN by the Client. Extrajudicial debt collection charges run to 15% of the amount owing, subject to a minimum of €175 (one hundred and seventy-five euros). In any event, interest at a rate equal to the statutory commercial interest rate plus 3% will be charged monthly on the amount payable by the Client, from the date on which the Client is in default.
- 10.10. AWWN has the right to suspend its activities and other obligations until full payment has been made, without prejudice to the Client's duty to fulfil its obligations. The preceding provisions are without prejudice to other rights accruing to AWWN based on a failure by the Client to fulfil its obligations.

11. Confidentiality

- 11.1. The parties guarantee to each other that data received from the other party that are known to be or could reasonably be assumed to be confidential will be kept secret, unless a legal obligation requires the disclosure of these data.
- 11.2. The Client safeguards AWWN against claims from persons in respect of whom personal particulars are handled in the context of performance of an Order or the provision of a Product and/or Service, unless the Client proves that the facts underlying the claim are solely attributable to AWWN.
- 11.3. AWWN makes it its aim to handle data on (the policy with regard to) remuneration and fees and other data relevant to the status of employer for the purposes of the service it provides to its members. This also applies to the information it is given in the framework of an Order or the provision of a Product and/or Service, unless the Client expressly states that it does not grant its permission for this. Data obtained by way of an Order or Product and/or Service are always handled anonymously and in accordance with the laws on privacy.

12. Intellectual property

- 12.1. Models, techniques and instruments, also including software and other products of the mind, which are used for execution of an Order or are included in the recommendation or research result as well as of a Product and/or Service provided, are and shall remain the property of AWWN, insofar as they do not already belong or accrue to third parties.

- 12.2. The Client is entitled to duplicate and disseminate documents within its own organisation, provided this is in keeping with the objective of the Order or within the terms of use of the Product and/or Service concerned.

13. Liability

- 13.1. In the unlikely event of there being an occurrence, while an Order is being carried out or during the use of a Product and/or Service, that leads to liability on the part of AWWN, this liability shall be limited to the amount paid out in the case in question pursuant to the professional indemnity insurance AWWN has taken out, plus the amount of the excess that is not payable by the insurance companies according to the policy conditions.
- 13.2. AWWN is not liable for failures or shortcomings on the part of third parties who are involved in the execution of the order or the provision of a Product and/or Service with the Client's approval.

14. Force majeure

- 14.1. None of the Parties is obliged to fulfil any obligation if it is prevented from doing so by *force majeure*.
- 14.2. The aforementioned circumstances also include circumstances that are beyond AWWN's control and business risks of AWWN, including - but not limited to - shortcomings by suppliers of AWWN, not entirely accurate specifications and/or functional descriptions of Third Party Products and/or Services and/or products supplied by third parties, fire, explosion, electricity outage, (D)DoS attacks, hacking, cracking or any downtime or unavailability due to unlawful acts by third parties, the destruction, damaging or rendering unserviceable by anyone at all of any automated work or any work for telecommunication, disturbance in the progress or functioning of such work, or the thwarting by anyone at all of a security measure taken in respect of such work, disruptions in networks, flood, illness, staff shortage, theft, traffic congestion and/or transportation problems.
- 14.3. If the situation of *force majeure* has lasted for more than 90 days, the Parties have the right to terminate their contract in writing. Payment will then be made in settlement of the work that has already been done in accordance with the Order or the provision of a Product and/or Service, without the Parties subsequently being liable to pay each other anything over and above this.

15. Applicable law

The legal relationship between the parties is subject to Dutch law. Disputes will in the first instance be settled exclusively by the District Court of The Hague.