

# Terms and Conditions

Conditions of registered number 34110166 Chamber of Commerce Amsterdam on July 12nd , 2000. [Return](#)

## 1. Overall

The general conditions shall apply:

- a. Client: the party that the contract gives
- b. Contractor: legally authorized representative and / or employee of Empathy

## 2. Applicability

2.1. These general conditions apply to all offers, activities, tenders and contracts between contractor and client, or their successors, with the exclusion of the conditions of the client, except for modifications in the terms of the contractor by both parties and expressly confirmed in writing. Article 7:404 and 7:407 paragraph 2 Dutch Civil Code shall not apply to contracts with the contractor.

2.2. The conduct and professional practice for the contractor are part of the agreement. The sponsor states the obligations arising therefrom for contractor ever to fully respect. On Mediation by contractor shall also apply, unless a different agreement with the contractor Mediation is closed, the Mediation Agreement that states as on the date of the start of the Mediation even in the event that the Mediation Agreement is not signed.

2.3. All offers and quotations, in any form whatsoever, are optional, unless it expressly states the contrary.

## 3. Conclusion of contract

3.1 The contract is concluded at the time that the notice of acceptance by contractor is received by client. The confirmation is based on the information provided by the client. The client warrants that he in good conscience while all essential information for the design and execution of the contract provided, these also taken to include an address and domicile changes. The letter is considered the agreement correctly and completely represent.

3.2. The parties are free to prove that the contract otherwise or other content is established.

3.3. The Agreement is concluded for an indefinite period unless the content, nature or scope of the assignment results that for some time entered.

3.4. If the client is a legal entity, a partnership or a limited partnership, or if the contract is entered into with more clients, each director, (managing) partner or client proxy

deemed to have given any (legal) acts in execution of or in connection with the provisions of the agreement, the general conditions stated therein and applicable rules.

#### **4. Provision of information by the client**

4.1. Client account all information and documents that the contractor under its deems necessary for the proper execution of the assignment, client or which should reasonably understand to be necessary for the execution of the contract, time in the desired form and preferred method for disposal.

4.2. Client is responsible for the accuracy, completeness and reliability of the available information and documentation provided to the contractor, even if the resource of this information is from third parties. The contractor is not liable for damage of any kind, arise because the contractor is based on information provided by client incorrect and / or incomplete information, unless such inaccuracy or incompleteness ought to have known to contractor.

4.3. If the for the execution of the contract required data either not, not promptly or not properly is provided to the contractor, the contractor has the right to suspend the execution of the task. From the delay in the execution of the contract, incurred by either not, not promptly or not properly providing the requested information and documents the extra costs and extra fees are on behalf of the client.

4.4. If and where the client requests, the made available documents will be returned.

#### **5. Implementation of the contract**

5.1. Contractor shall determine the manner in which the assignment is executed. The interests of the client is taking decisive. Changes in the person running the contract, may, subject to objection by the client, take place without changes in the cost of the services, unless the change is requested by the client and the hourly rate of who will be executor of the contract is higher than the hourly rate of the person who was responsible for it with it. In the latter case, the client has to start paying the higher hourly rate.

5.2. Contractor may only have more work to do and then charge the client commissioned disclosed if this client, prior to further work, if client has granted permission, unless the nature of the additional work, be it the urgency of the work so that prior authorization cannot be seen.

5.3. Contractor is entitled to let perform the contract in whole or part by third parties. If parties to the contractor performing the contract would involve the provision of substantial work, he shall only proceed after the client in writing thereof to have been. If client wishes to involve third parties in the provision of substantial work in the implementation of the contract, client shall only proceed after about an agreement is reached with the contractor.

5.4. A contract is always accepted on the condition that the contractor within five working days of access to the file, can return the contract, without any compensation being due.

5.5. Contractor will perform the task to the best knowledge and ability. With wishes of the client (e.g. use of certain terminology) will be taken into account by the contractor, if contractor feels that this is acceptable.

## **6. Confidentiality**

6.1. Contractor shall, unless he has a legal or professional obligation to disclose, not to disclose to third parties.

6.2. Contractor is not entitled to use the information provided and or made available, to use for a purpose other than for which it was obtained. However, this rule is not applicable in case the contractor itself is getting involved in disciplinary, civil or criminal proceedings, in which these documents may be relevant.

6.3. Unless authorized by the contractor prior written consent, the contractor will not make public the content of opinions, reports or other written statements of whether or not from the contractor, which are not stated or made with the scope of the parties therein to provide information. The contractor will also ensure that third parties not involved shall not get acquainted with this information.

6.4. Contractor will have obligations under this Article impose on others by him.

## **7. Intellectual Property**

7.1. All intellectual property rights (including copyrights, neighboring rights, patent rights, database rights, design rights and trade marks) on the results of the contractor to client services, activities and performance are held by the contractor or its licensors.

7.2. The Client is expressly prohibited from reproducing, publishing or practices, reports, advice, (model) contracts, articles, other text, and other intellectual property of the contractor, and in the broadest sense, directly or indirectly, whether not involving third parties, to reproduce, other than for internal use, to reveal or exploit. It is not permitted resources of those products to third parties to hand over, other than to obtain an expert opinion about the work of the contractor.

7.3. Contractor supplies at all times under the retention. This means that in case of non or late payment, the supplies of anything delivered by the contractor remains at the contractor and cannot be used in any way.

## **8. Fee**

8.1. The fee is not dependent on the outcome of the assignment.

8.2. The contractor should be reimbursed fees and disbursements. The contractor can demand a security claim in the form of cash advance.

8.3. With Disbursements are meant:

- reimbursement of such costs to specify registry, travel and accommodation costs, appraisal costs, lawyer, prosecutor and bailiff costs, etc.
- fee not to specify office expenses such as postage, telephone, copy costs, etc., flat rate a percentage of the fee.

8.4. The fee is calculated over the period of the current basic hourly rate of the contractor, at least one other, by the contractor in writing stipulated, basic hourly rate. The amount of the hourly rate annually, from the first day of the new calendar adopted by the contractor and is available on request. If another basic hourly rate is agreed on, at the same date an increased or reduced by the same percentage as the change of the basic hourly rate is applicable. Factors such as the importance of the case, specialized nature of the case, strength of the client and urgency of the work to be done, may lead to increase or decrease the base hourly rate with a multiplier of 0.5 to 2.

8.5. Until the contract is completed, the contractor is entitled to declare interim.

## **9. Payment**

9.1. The client's payment has to be, without deduction, discount or setoff, made within the agreed period, but in no event later than fourteen days after the date of payment request. Payment must be made in Euro currency by transfer in favor of a bank account designated by the contractor or to be it through a legal tender directly to the Director of the contractor.

9.2. If the client not paid within under 9.1. said period, client is legally in default, and contractor is authorized, without further notice and notwithstanding the other rights of the contractor, to charge from the date due from the client an interest corresponding to 1 (one) % per month on the outstanding amount to the date of full settlement. If payment is not forthcoming within fourteen days, the contractor will send a reminder. If payment was not produced within the time limit, the contractor, relying on the uncertainty exception, can suspend its work, also for other tasks than that of the unpaid principal claim related work. Contractor is also entitled to detent all documents, whether in relation to the contract which the unpaid claim relates or not until full payment has been done.

9.3. Contractor shall at all times be entitled to require deposit of a client as security for the costs incurred by him in performing the contract. If payment of this deposit are not pursued, the contractor is entitled, without prejudice to its other rights, to suspend the (further) execution of the contract. and to claim all that has principal claimable at the client for whatever reason is due immediately on demand. If the client did not gave some warranties within five working days after written request, contractor is authorized to suspend its obligations and / or terminate the agreement. In case of suspension and /

or termination of the contract the contractor retains the right to reimbursement of up to that time work performed and delivered.

9.4. In the event of liquidation, (imminent) bankruptcy or suspension of payment of principal, the principal obligations are repayable on demand.

9.5. Payments made by the client are to settle in the first place of all interest and costs, in the second place of outstanding declarations that exists the longest, even if the client indicates that the payment relates to a later invoice.

9.6. All reasonable actual judicial and extrajudicial (collection) costs, the contractor as a result of the failure of the client of its commitment, will be charged to the client. The extrajudicial collection costs after the first letter be considered at least 15% of the claim amounts, but with a minimum of €249,00 euro. If Contractor, after notice to court collection action passes, the customer account the real costs (thus not only called liquidated costs) compensation linked to the measures and procedure (s), including the number of hours involved to such collection action against hourly rate as provided in Article 8.4.

9.7. If the financial position or the payment history of the client in the opinion of the contractor asks for it, the contractor is authorized to demand that client immediately supply (additional) security to the contractor in a form to be determined by the contractor. If the client fails to supply the desired security, the contractor is entitled, without prejudice to its other rights, to suspend the (further) implementation of the agreement immediately and not withstanding to claim all that the principal is due immediately on demand.

9.8. In case of a joint task is given by multiple principals, the work for the joint clients are performed jointly each individual client is liable for payment of the claim amount.

## **10. Third party money**

10.1. Valuables which contractor for client receives and advances made by the client, will be paid into an separate account of the contractor. On those funds, unless another arrangement is made, are not remunerated.

10.2. Funds accruing to the client will be within 14 days after any settlement with the contractor the sums, to which compensation is the contractor is competent, paid by a by client to indicate the bank account. If the client total or partial challenge the settlement of the sums is hold, the funds remain in the account of the contractor.

## **11. Complaints**

11.1. Complaints concerning the activities and / or the invoice amount must, on pain of forfeiture, in writing, made and broken within 30 days after the date of the documents or information which the client's complaint, or within 30 days after the discovery of the

defect if client demonstrates that the fault could not reasonably have been discovered and within 30 days after completion of the contract, the contractor should be made known.

11.2. Complaints as in the previous paragraph, suspend the payment of principal not. If the complaint is accepted by the contractor, the contractor has the right to choose between adjusting the fee charged, the free improvement or re-provision of the rejected work or the whole or partly (more) to execute the contract at a pro rata refund by Client fee already paid.

## **12. Delivery**

12.1. If the client has to make a prepayment or if the client ought to implement the information and / or materials made available, then the period within which the work must be completed is not earlier than after the payment has been received, or the information and / or all materials have been made available.

12.2. Time limits within which the work must be completed, are only be regarded as deadlines if expressly agreed. The agreement may - unless carrying permanently undoubtedly impossible - out of time by client not be dissolved unless the contractor agreement also does not implement it within one, after the agreed period, said writing being reasonable period. Termination is allowed in accordance with Article 264 of the Civil Code, Book 6.

## **13. Withdrawal**

13.1. Client and contractor, interim implementation of the contract terminate if one of them considers that the task execution cannot or need to occur, or continue the work of the contractor could not reasonably be required. Under this case and liquidation and bankruptcy of the originator in each case to be counted.

13.2. Premature cancellation must be registered, and written justification to the other party to be notified. If the party terminates this fails, the other party can notice in writing.

13.3. Does the contractor cancels then he shall ensure that his client of the least disadvantage.

13.4. Interim or early termination by the client does not absolve him of the payment obligations of existing workload. If a client prematurely terminating contract for a specified period then is the client fee immediately payable. The amount of these compensatory amounts 20 times the agreed hourly rate or a compensatory payment will be determined on the basis of what is specifically stated in the agreement, the order confirmation or contract specifications. By mid termination of a contract to do complaint investigation will take at least 40 hours per complaint investigator to be declared once received a complaint. Merits of the complaint investigation only not takes place when a clients express written ban has been received by contractor.

## **14. Liability**

14.1. Contractor will work to its best ability and in accordance with the requirements of good craftsmanship to provide care while the respect of her can be expected. This requirement has the character of a "commitment" because the achievement of the desired result cannot be guaranteed. If an error is made by the principal with false or incomplete information, the contractor is for any resulting damage not liable. If the client demonstrates that he has suffered damage through an error by the contractor in due diligence could have been avoided, the contractor is only liable for the damage if a professional liability insurance entitlement and give it to the limit of that benefit, or if no professional liability insurance is applicable, up to the gross invoice amount received over the last three months unless in cases on the part of contractor of intent or equivalent gross negligence.

14.2. Contractor shall never be liable for damages resulting from loss, destruction, damage to the contractor entrusted to file documents, manuscripts, documents, papers, books, diskettes, video or audio tapes and other media, except on the part of contractor in cases of intent or equivalent to gross negligence.

14.3. Where the client suffered damage not covered by insurance, but was nonetheless satisfied with the conditions that lead to liability of the contractor as defined in paragraph 1, the contractor's liability limited to the gross invoice amount received over the last three months .

14.4. Client shall indemnify the contractor against claims by third parties for damages caused by the client to the incorrect or incomplete information unless the client proves that the injury is not related to culpable act or omission on his part Be it caused by intent or gross negligence of the contractor.

14.5. Client shall indemnify the contractor for claims and claims of rights by third use and / or publication of information relating to copyright, intellectual property and confidentiality obligations.

## **15. Archiving**

Personnel involved in the case of a contract formed by contractor will be retained for at least one years, after which it can be destroyed.

## **16. Shipping**

16.1. All services, texts and other products of the mind, which also supplied free, travel to the client's risk.

16.2. Delivery is deemed to have occurred at the time of transmission by mail, fax, courier, e-mail etc.

16.3. Delivery of documents via electronic post shall be deemed to have occurred when the medium has confirmed the dispatch.

## **17. Force majeure**

17.1. Force majeure means any agreement with the conclusion of the unforeseen circumstance, which fulfillment of any obligation by the principal cannot reasonably be required. With his illness equivalent to force majeure, strikes, lockouts, war, threat of war, riots, transportation difficulties, fire and other serious disruptions in the company of the contractor or vendor contractor or the work location of the contractor.

17.2. In case of force majeure, the obligations of the parties and suspended again. If the force majeure situation so long that compliance cannot reasonably be required, then either party by any written agreement as to the future dissolve without parties and turn to any compensation. If the contractor as a result of force majeure to discontinue further performance, the contractor retains the right to compensation from that date to the work performed and delivered.

## **18. Applicable law and jurisdiction**

18.1. Any dispute arising from this Agreement or acts building upon contracts, parties will try in first instance to resolve through mediation.

18.2. If it is impossible to resolve a dispute as referred to above as to be solved through mediation, the dispute shall, to the exclusion of any other court in first instance be submitted to the discretion of the competent court pursuant to Dutch law.

18.3. All disputes related to agreements between client and contractor which these general conditions apply and not within the jurisdiction of the district court properly be settled by the competent court in the district in which the contractor is domiciled. Contractor remains the right to sue the client under the Act or at the applicable international treaty jurisdiction.

18.4. If the client or consumer is not in his business practices (including the client himself or natural person who represents the client) three or fewer than three persons are employed, have the right for one months after the contractor in writing has invoked this provision to choose to settle the dispute by the legally competent civil court.

## **19. Change of conditions**

19.1. The contractor is entitled to change these conditions of contract. Contractor will the changed conditions in time to send client. The amendments shall enter into force when the parties towards the client in writing and specifically the change in the conditions have confirmed.

19.2. If one or more provisions of these terms and / or agreements are legally invalid, this will cause no impact on the remaining provisions.

## **20. Expiration time**

Insofar as these general conditions are not otherwise provided, lapse claim rights and other powers of the client for whatever reason against the contractor in connection with the performance of work by the contractor in any event after one year after the time that the client became aware or could reasonably be aware with the existence of such rights and powers.

[The General Conditions are established on June 30, 2000.](#) These general conditions are in the Dutch language. These general conditions are deposited at the Amsterdam Board of Trades and Industry. An English translation of these Conditions is available. In case of discrepancy between the English and the Dutch Conditions, the Dutch text will prevail. © 2000-2010.

