

**Just**

strategy, identities & campaigns

GENERAL CONDITIONS JUST B.V

# General Conditions

## Article 1: Definitions

- 1.1. In the absence of explicit statement to the contrary, the terms used in these general terms and conditions are defined as follows.

User: Just B.V. the user of the general terms and conditions.

Client: The user's counterparty.

Contract: The contract for the rendering of services.

## Article 2: General

- 2.1. These conditions are applicable to all offers, quotations and all contracts between the user and a client to which the user has stated that these conditions are applicable, in so far as the parties have not made any specific written agreements to the contrary.
- 2.2. These terms and conditions are further applicable to all contracts with the user that are executed with the assistance of third-parties.
- 2.3. Departures from these general terms and conditions are valid exclusively if expressly agreed in writing.
- 2.4. The applicability of any purchasing or other conditions of the client is expressly rejected.
- 2.5. If one or more of the provisions of these general terms and conditions or of the accompanying contract are invalid or set aside, the remaining provisions of these general terms and conditions and the contract shall remain applicable in full. The user and the client will in that case enter into consultation with a view to making agreement on the substitution of the invalid provisions with new ones that approach as closely as possible the purpose and the tenor of the original provisions.

## Article 3: Offers and quotations

- 3.1. All offers are subject to contract unless the offer contains an express written statement to the contrary.
- 3.2. In the absence of statement to the contrary, the prices stated in the aforementioned offers and quotations are exclusive of VAT and other governmental levies as well as the costs incurred in relation to the contract, including forwarding and administration expenses.
- 3.3. If the acceptance differs (on minor points) to the offer set out in the quotation, the user is not bound to those differing points. In the absence of statement to the contrary by the user, the contract will in that case not be formed in keeping with those different points.
- 3.4. A composite price statement does not oblige the user to perform part of an order at a corresponding proportion of the stated price.
- 3.5. Offers and quotations are not automatically applicable to future orders.

## Article 4: Execution of the contract, information and resources

- 4.1. The user will execute the contract to the best of his knowledge and ability and in accordance with high standards and in keeping with the expertise the client can reasonably expect of the user. The user does not however guarantee that any intended result will be achieved.
- 4.2. The user will determine how and by whom the order is carried out, but will act in accordance with the client's indicated wishes wherever possible. If and in so far as required for the correct execution of the contract, the user reserves the right to have the work carried out by third-parties.

- 4.3. The client shall that the user is provided in full and in good time with all information, as well as amendments thereto, in the form and manner that the user indicates is necessary for the performance of the contract or which the client could reasonably be expected to understand is required both on commencement and during the execution of the contract. If the information required for the execution of the contract is not issued to the user on time or in full, the user reserves the right to suspend execution of the contract and/or to charge the client with extra costs incurred as a result of the delay at the current market rates.

- 4.4. The client shall ensure that the user is provided in good time with all resources and facilities that the user indicates are necessary and which the consumer could reasonably be expected to realise are necessary to the execution of the contract and to ensure that they are available and correctly functioning at all times. If sufficient resources required for the execution of the contract are not issued to the user, the user reserves the right to suspend execution of the contract and/or to charge the client with extra costs incurred as a result of the delay at the current market rates.
- 4.5. The client guarantees the correctness, completeness and reliability of the information, resources and facilities he issues or has issued to the user. The user cannot be held liable for losses of any nature whatsoever caused by the user's use of incorrect and/or incomplete information provided by the client, unless the user should have been aware of that inaccuracy or incompleteness.
- 4.6. The client is obliged to inform the user without delay of changes to the issued information and other facts and circumstances that could be important to execution of the contract.
- 4.7. If it has been agreed that the contract will be executed in stages, the user reserves the right to suspend execution of the components forming part of a subsequent stage until the client has approved the results of the preceding stage in writing.
- 4.8. If the user or third-parties engaged by the user in the context of the order carry out work at the client's location or a location indicated by the client, the client shall provide those employees, free of charge, with the facilities that can reasonably be required by those employees.

## Article 5: Amendments to the contract

- 5.1. If during the execution of the contract it becomes apparent that it is necessary to make amendments or additions to the work for the correct execution of the contract, the parties shall enter into consultation in good time and amend the contract accordingly.
- 5.2. Amendments or additions to the contract that have been agreed by the parties can result in a change to the completion date. The user shall inform the client of changes to the completion date as soon as possible. Amendments or additions to the contract do not give the client any entitlement to compensation for damages.
- 5.3. If the amendment or addition to the contract has any financial and/or quality implications, the user shall inform the client of those implications in advance. The user has the right to charge additional costs to the client.
- 5.4. If a fixed fee has been agreed, the user shall further indicate the extent to which the amendment or addition to the contract will result in that fee being exceeded.

## Article 6: Duration of the contract; period of execution

- 6.1. The contract between the user and a client is entered into for an indefinite period of time unless the nature of the contract provides otherwise or the parties make express and written agreement to the contrary.

- 6.2. A time period agreed during the term of the contract for the completion of work shall not under any circumstances be deemed to be a firm deadline. If the implementation period is exceeded the client must therefore issue the user with written notice of default.
- 6.3. Unless it has been established that execution of the contract has become permanently impossible, the contract cannot be dissolved by the client owing to the term being exceeded unless the user also fails to execute the contract or execute it in full within a reasonable period of time that he has indicated in writing following expiry of the agreed time of delivery.

#### Article 7: Termination

- 7.1. Either party is authorised to terminate the contract with due observance of a notice period considered reasonable in the circumstances and towards the end of a calendar month unless otherwise agreed by the parties. Notice must be given in writing.
- 7.2. If the contract is prematurely terminated (if the contract was entered into for a fixed period of time) by the client, the user has the right to compensation for damages in respect of resulting and demonstrable loss of capacity utilisation unless the termination is in response to facts and circumstances that can be attributed to the user. The client is further obliged to pay the bills for work carried out up until that time.
- 7.3. If the contract is prematurely terminated by the user, the user will arrange in consultation with the client for the work not yet carried out to be transferred to third-parties, unless the termination is in response to facts and circumstances that can be attributed to the client.
- 7.4. If the user incurs extra costs when transferring the work, the client shall be obliged to compensate the user for those costs with due observance of the provisions of articles 8 and 9 of these general terms and conditions.

#### Article 8: Fee

- 8.1. The parties can agree upon a fixed fee when forming the contract.
- 8.2. If a fixed fee is not agreed, the fee will be calculated on the basis of the hours actually worked. The fee will be calculated at the user's customary hourly rates applicable to the time period in which the work is carried out unless a different hourly rate has been agreed.
- 8.3. The fee and any cost estimates are exclusive of VAT.
- 8.4. For orders with a term of more than two months the payable costs will be charged periodically.
- 8.5. If the user agrees on a fixed fee or hourly rate with the client, the user shall none the less be entitled to increase that fee or rate, in cases where amendments or additions are made to the contract, for example.
- 8.6. The user is further authorised to pass on price increases to the client if cost-determining factors such as salaries are increased between the time of the quotation and delivery.
- 8.7. The user is further entitled to increase the fee if, during the performance of the work, it becomes apparent that the originally agreed or anticipated amount of work was underestimated when the contract was entered into, for reasons that cannot be attributed to the user, to such an extent that the user cannot reasonably be expected to perform the agreed work for the originally agreed fee. The user will inform the client of his intention to increase the fee or rate. The user will state the amount of the increase and the date on which it will come into effect.

#### Article 9: Payment

- 9.1. Payment is due within 14 days of the invoice date, without any deduction, discount or set-off, by depositing or transferring the payable amount to the bank or bank giro account stipulated by the user. Objections to the level of the bills do not suspend the payment obligation.
- 9.2. If the client fails to remit payment within the 14-day period, the client shall be held in default by operation of law. The client shall in that case be liable for the payment of interest equal to the statutory commercial interest rate at that time. The interest over the payable amount shall be calculated from the time at which the client was held in default until the time of full and final settlement, in which context part of a month shall be deemed to be a full month.
- 9.3. In the event of the client being liquidated, declared bankrupt or granted suspension of payment, the claims of the user on the client shall become immediately due and payable.
- 9.4. The user reserves the right to have payments made by the client extend first to payment of costs, then to outstanding interest and finally the principal amount and the current interest. The user can refuse a payment offer, without thus being in default, if the client indicates a different order of allocation. The user can refuse full payment of the principal amount if the due and current interest and costs are not remitted at the same time.

#### Article 10: Retention of title

- 10.1. All goods delivered by the user, including designs, sketches, drawings, films, software, (electronic) files, etc., remain the property of the user until the client has met in full all of the obligations under the contract entered into with the user; this to be decided at the user's discretion.
- 10.2. The client is not authorised to pledge or encumber in any other way the goods covered by retention of title.
- 10.3. In the event of third-parties imposing an attachment on the goods delivered under retention of title or setting out to establish or invoke any rights to them, the client is obliged to notify the user of that as soon as may reasonably be expected.
- 10.4. The client is obliged to insure goods delivered under retention of title and to keep them insured against fire, explosion and water damage and against theft and to issue the insurance policy for inspection on demand.
- 10.5. Goods delivered by the user and which are covered by retention of title as provided for under paragraph 1 of this article may only be sold on in the context of normal business operations and may not under any circumstances be used as a means of payment.
- 10.6. In the event of the user wishing to exercise his property rights as provided for in this article, the client hereby gives unconditional and irrevocable permission, now for then, for the user or third-parties engaged by the user to enter the places where the property of the user is located and to repossess that property.

#### Article 11: Collection costs

- 11.1. All judicial and extrajudicial (debt collection) costs reasonably incurred by the user in connection with the client's non-compliance or late compliance with his payment obligations shall be for the client's account.
- 11.2. The client is liable for payment of interest over the debt collection costs.

## Article 12: Inspection, complaints

- 12.1. Complaints about the work carried out must be lodged in writing by the client to the user within 8 days of the faults being established, but 14 days at the latest following completion of the work in question. The notice of default should contain a description of the failure to perform in as much detail as possible so that the user is able to put forward an adequate responsible. A claim does not suspend the client's payment obligation other than if and insofar as the user has informed the client in writing that he regards the claim as being well-founded or well-founded in part.
- 12.2. If the complaint is well-founded, the user shall as yet carry out the work as agreed unless that is demonstrable no longer of any benefit to the client. The client shall be responsible for indicating that that is the case in writing.
- 12.3. If it is no longer possible or beneficial to carry out the agreed work, the user can repay a proportion of the fee already paid without continuing to carry out the order and the user can only be held liable in that regard within the constraints set forth in article 16.

## Article 13: Expiry period

- 13.1 Notwithstanding the provisions of article 12, the client is obliged if he is or remains of the opinion that the user has failed to implement the contract on time, completely or correctly - unless this is done subject to the provisions of article 12.1 - to notify the user as such in writing and without delay and to exercise his rights to institute claims on that basis within one year of the date of that notification, or within one year of the time at which notification should have taken place, in the absence of which all of his rights and claims in that regard shall lapse upon expiry of the period set forth above.

## Article 14: Suspension and dissolution

- 14.1. The user is authorised to suspend compliance with his obligations or to dissolve the contract if:
- The client fails to meet his contractual obligations or meet them in full.
  - After entering into the contract, the user becomes aware of circumstances that give the user good grounds to presume that the client will not meet his obligations. If there are good grounds for presuming that the client will only meet his obligations in part or not adequately, the suspension shall only be permitted if justified by the shortcoming.
  - Upon entering into the contract the client was required to furnish security for meeting his contractual obligations and has failed to provide that or sufficient security.
- 14.2. The user is further authorised to dissolve the contract or have it dissolved if circumstances arise of such a nature that compliance with the contract is no longer possible or can no longer be required according to the standards of fairness and equity of if circumstances arise of such a nature that the contract cannot reasonably be left in effect in unamended form.
- 14.3. If the contract is dissolved, the claims of the user on the client shall become immediately due and payable. If the user suspends compliance with his obligations, he retains his claims by law and under the contract.
- 14.4. The user reserves the right at all times to claim compensation for damages.

## Article 15: Return of issued goods

- 15.1. If the user has issued the client with goods during implementation of the contract, the client is obliged to return those goods in their original condition, free of defects and complete within 14 days of the user's first request for him to do so.

- 15.2. If the client fails to meet the obligation set out above under 15.1, the client will be obliged to compensate the user for the losses and costs arising thereof, including the replacement costs.

## Article 16: Liability

- 16.1. In the event of the user being held liable, that liability shall be limited to the provisions of this clause.
- 16.2. The user's liability for losses suffered by the client as a result of the order not being carried out on time, in full or correctly is limited to a maximum of twice the amount of the fee charged by the user to the client for the performance of the work in which the cause of the loss occurred, subject to the proviso that this relates exclusively to the fee payable during the last three months in which that work was carried out. The compensation payable by the user to the client cannot however under any circumstances exceed the amount for which the user's liability is insured, or a maximum amount of 25,000 euros if no cover is provided by that insurance. The above is subject to exception in cases of intentional act or omission on par with gross negligence on the part of the user. For the purpose of this and subsequent clauses of this article the user is also defined as the user's employees and third-parties he has engaged for the implementation of the order.
- 16.3. The user cannot be held liable for losses caused by the client's failure to meet the disclosure obligation pursuant to article 4.3 or the fact that the information provided by the client is not in keeping with the provisions of article 4.5, unless those losses are the result of intentional act or omission or causes on par with gross negligence on the part of the user.
- 16.4. Neither can the user be held liable for losses caused by acts or omissions of third-parties engaged by the client during implementation of the order, unless those losses have been caused by intentional act or omission or causes on par with gross negligence on the part of the user.
- 16.5. The user is further authorised at all times to maximally limit or reverse the client's loss, for which the client is obliged to cooperate in full.
- 16.6. The user cannot under any circumstances be held liable for indirect losses, including consequential losses, loss of income, missed savings or losses caused by business stagnation. The above is subject to exception in cases of intentional act or omission on par with gross negligence on the part of the user.

## Article 17: Indemnification

- 17.1. The client indemnifies the user against claims of third-parties regarding intellectual property rights on materials or information issued to the client and which are used during implementation of the contract.
- 17.2. If the client issues the user with information carriers, electronic files or software, etc., he guarantees that the information carriers, electronic files or software are free of viruses and defects.
- 17.3. The client indemnifies the user against claims of third-parties regarding losses related to or arising from the order implemented by the user if and insofar as the user is not liable to the client in that respect by virtue of the provisions of article 16.

## Article 18: Transfer of risk

- 18.1. The risk of the goods forming the subject of the contract being lost or damaged shall transfer to the client at the time at which they are legally and/or actually delivered to the client and are thus placed at the client's disposal or a third-party nominated by the client for that purpose.

## Article 19. Force majeure

- 19.1. The parties are not be required to comply with any obligation if prevented from doing so as a result of a circumstance that is beyond their control and for which they cannot be held accountable by virtue of the law, a juristic act or generally accepted views.
- 19.2. In these general conditions, force majeure is defined - in addition to that which is deemed as such by law and legal precedent - as all circumstances, foreseen or unforeseen, that are beyond the control of the user but which prevent the user from meeting his obligations. That includes strikes at the user's business.
- 19.3. The user shall also be entitled to invoke force majeure if the circumstance preventing (further) compliance occurs after the user should have met his obligations.
- 19.4. The parties can suspend their contractual obligations during the period of force majeure. If the period of force majeure lasts for longer than two months, either party shall be entitled to dissolve the contract without being obliged to pay any compensation for damages to the other party.
- 19.5. If the user has already partly met or will partly meet his contractual obligations when the period of force majeure begins and independent value can be attached to the obligations complied with or to be complied with, the user reserves the right to separately charge for the obligations already complied with or to be complied with. The client is obliged to pay that charge as though it were a separate contract.

## Article 20: Confidentiality

- 20.1. Both parties are obliged to protect the confidentiality of all confidential information that they obtain from each other or from other sources in the context of their contract. Information is deemed to be confidential if the other party has been informed that is the case or if that is apparent from the nature of the information.
- 20.2. If the user is obliged pursuant to a statutory provision or a legal ruling to disclose confidential information to third-parties designated by the law or the court with competent jurisdiction, and the user is unable to invoke a right to privilege recognised or permitted by statute or by the court with competent jurisdiction, the user is not obliged to pay compensation for damages or other compensation and the counterparty is not entitled to dissolve the contract on the ground of any losses thus caused.

## Article 21: Intellectual property and copyrights

- 21.1. Notwithstanding the other provisions of these general terms and conditions, the user reserves the rights and powers enjoyed by the user under the Netherlands Copyright Act.
- 21.2. All reports, recommendations, contracts, designs, sketches, drawings, software, etc., issued by the user are exclusively designated for the client's use and the client may not, without the prior permission of the user, reproduce them, publicise them or communicate them to third-parties unless otherwise determined by the nature of the documents issued.
- 21.3. The user reserves the right to use information received through the implementation of the work for other purposes provided that doing so does not result in confidential information being disclosed to third-parties.

## Article 22. No-takeover of personnel

- 22.1. During the term of the contract and for one year following its termination the client will refrain from employing or otherwise making use of the services, directly or indirectly, of employees of the user or of companies engaged by the user for the implementation of this contract or which are or have been involved in the implementation of the contract other than following proper consultation on that subject with the user.

## Article 23: Disputes

- 23.1. In the absence of mandatory rules of law to the contrary, the court in the user's place of establishment has exclusive competent jurisdiction.
- 23.2. The parties shall not refer a matter to court until they have done their utmost to resolve the dispute in mutual consultation.

## Article 24: Applicable law

- 24.1. All legal relationships between the user and the client to which these general conditions apply shall be governed by the laws of the Netherlands. The Vienna Sales Convention is expressly excluded.

## Article 25. Source of the conditions

- 25.1 The most recently filed version or the version that was applicable at the time at which the contract was formulated shall be applicable at all times.