

General Terms and Conditions of oneUp B.V.

(Our Dutch Terms and Conditions "Algemene Voorwaarden" are the legally binding text version)

General terms and conditions of oneUp B.V., a private company incorporated under Dutch law, registered office in The Hague and its principal place of business in Amsterdam, the Netherlands, hereinafter referred to as "oneUp".

These general terms and conditions (hereinafter the "General Terms and Conditions") were filed with the District Court of The Hague on 6 July 2023 and registered as number 24/2023.

1. General Terms and Conditions, offer and agreement

- 1.1 These General Terms and Conditions apply to all offers and agreements whereby oneUp provides services and/or work of any nature to the customer. The customer is the party giving an order to oneUp. These General Terms and Conditions also apply to any additional or follow-up assignments.
- 1.2 Unless otherwise indicated in writing by oneUp, all offers by oneUp are without engagement.
- 1.3 Applicability of any purchasing conditions or other conditions of the customer is expressly rejected.
- 1.4 If any provision of these General Terms and Conditions is null and void or annulled, the remaining provisions of these General Terms and Conditions will remain in full force and effect.

2. Creation and duration of the agreement

- 2.1 The agreement and hence the assignment come into effect the moment the customer confirms the service offered by oneUp orally or in writing, electronically or tacitly, or when oneUp's work commences.
- 2.2 The agreement is entered into for a definite period, unless it follows from the content, nature or purpose of the assignment given by the customer that it was entered into for an indefinite period.
- 2.3 The provisions of an order confirmation will prevail over these General Terms and Conditions.

3. Additional work

- 3.1 Work and/or services performed by oneUp at the request or with the prior consent of the customer that fall outside the content or scope of the agreed work and/or services will be paid for by the customer in accordance with the agreed rates or, in the absence thereof, in accordance with oneUp's usual rates.

4. Price and payment

- 4.1 All prices are in euros and exclusive of sales tax (VAT) and other government levies.
- 4.2 oneUp is entitled to annually index the agreed prices as of the first day of the calendar year with a price increase of 2.5% (in words: two and a half). In case the increase of the Consumer Price Index (CPI) in a relevant year is higher than 2.5% (say: two and a half), the CBS Consumer Price Index All Households, Series 2015=100 will be used.
- 4.3 Payment by the customer must be made within 30 (in words: thirty) days of the invoice date, unless another payment term has been agreed in writing.
- 4.4 If the customer has not paid on the date on which the claim has become due and payable, they will be in default immediately without further notice of default. oneUp may charge the statutory interest rate for business transactions. oneUp will in that case furthermore be entitled, without prejudice to any other rights, to claim immediate payment of all outstanding invoices, regardless of whether they are already due and payable, and to suspend the performance of its obligations under the agreement and/or to terminate the agreement in whole or in part.
- 4.5 All costs of collection of the amount owed by the customer, as well as all judicial and extrajudicial costs, shall be borne by the customer.

5. Confidentiality

- 5.1 oneUp is obliged to maintain confidentiality of confidential customer information provided by or on behalf of the customer towards third parties, other than those involved in the performance of the work. This obligation does not apply to the extent that oneUp is obliged to disclose under the law or a binding regulation of a supervisory government body or a binding court ruling.
- 5.2 The obligation contained in paragraph 1 of this article does not apply in case the information referred to in that paragraph is already publicly known or becomes publicly known, other than as a result of an unlawful disclosure. The relevant obligation shall furthermore not affect the right of oneUp to submit the information mentioned in paragraph 1 of this article to its insurers and/or advisers in connection with oneUp's professional liability or to a contracted third party if this is necessary for the performance of the agreed work.
- 5.3 oneUp shall be entitled to use the information made available by the customer if oneUp acts for itself or persons employed by/for oneUp act for themselves in disciplinary, criminal or civil proceedings in which such information may be relevant.
- 5.4 Unless prior written consent has been granted by oneUp, the customer shall not disclose to third parties the contents of the work performed, reports, advice or other expressions of oneUp, written or otherwise, and shall only use them for their own - internal - business purposes. The customer will also ensure that third parties cannot take cognizance of the contents referred to in the previous sentence.
- 5.5 Unless with the prior written consent of oneUp, the customer shall not disclose oneUp's approach and methodology to third parties.
- 5.6 oneUp and the customer shall impose the obligations under this article on third parties engaged by them.

5.7 oneUp reserves the right to use - for advertising and reference purposes - the name of the customer and to indicate generically the type of work it has performed for the customer.

6. Right of use rights of intellectual or industrial property (IP)

6.1 All intellectual property and industrial property rights that have been created, used or developed by or on behalf of oneUp for the customer, or made available to the customer, such as advice, reports, designs, analyses, software tooling, websites, data files, etc. are exclusively owned by oneUp, its licensors or its suppliers.

6.2 The customer will acquire a free IP right of use of the delivered works as delivered and for the customer's internal purposes of use. This right of use is non-exclusive, non-sub-licensable and non-transferable to third parties and applies if the customer has fulfilled all its contractual obligations including its payment obligation for the delivered services and/or works.

6.3 The right of use of the IP does not include anything that oneUp cannot transfer, including in any case but not exclusively the (intellectual) property rights of auxiliary software and software or works of third parties. The customer will itself acquire a license for the use thereof from the relevant supplier, if necessary and appropriate.

6.4 oneUp will be entitled to use, further develop, exchange and exploit the knowledge, experience, general skills and general principles, programming languages, protocols, standards, non-customer-specific algorithms and the like for other purposes, either for itself or for third parties, without any restriction.

7. Cooperation by the customer

7.1 The customer shall, both of its own accord and at the request of oneUp, cooperate and make available in a timely manner all relevant information and documents which oneUp reasonably considers necessary from the customer for the correct performance of the work.

7.2 The customer shall ensure that oneUp is promptly informed of facts and circumstances that may be relevant in connection with the correct performance of the work.

7.3 The customer vouches for the accuracy, completeness, reliability and lawfulness of the information and documents made available to oneUp, also if they originate from third parties.

7.4 oneUp is not liable for any damage suffered by the customer resulting from the customer or third parties (i) failing to timely inform of, or withholding, facts and circumstances that are relevant in connection with the correct performance of the work and (ii) misrepresenting the facts.

7.5 If the relevant information or documents are not properly made available to oneUp in a timely manner or not at all, or if cooperation not properly provided by, for instance making available relevant documentation, ICT facilities or employees in a timely manner, any delay will not be imputable to oneUp and may give rise to delay costs which will be incurred by the customer, and oneUp's work may be suspended.

8. Termination

8.1 A contract of services or assignment entered for a definite period cannot be terminated prematurely by the customer.

8.2 Either party may terminate the agreement in writing with immediate effect in whole or in part if the other party is granted suspension of payment, bankruptcy is filed, or if the company is liquidated, terminated or ceases its activities. The party thus terminating the agreement shall never be liable for any damages. Any right of use of services, software and the like made available to the customer lapses in case of customer's bankruptcy.

8.3 Each of the parties may only dissolve the agreement due to an attributable failure in the agreed upon conditions of the agreement, if it has given the other party written notice of default with a description of the failure that is as specific and complete as possible, whereby a reasonable term is set to remedy the failure, this reasonable term has expired and the other party continues to fail in the performance of an essential obligation under the agreement. If, in the event of dissolution under this article, the customer has already received performance in execution of the agreement, such performance and the related payment obligation shall not be subject to cancellation insofar as such performance complies with the agreement.

8.4 Fixed-term agreements between the customer and oneUp, will be extended for an indefinite period of time after the expiry of the fixed term if work is still being performed on behalf of the customer and if neither party has invoked the termination of the agreement in a timely manner. In that case, the Agreement may be terminated with a notice period of 3 (in words: three) months unless a total of more than 24 (in words: twenty-four) months of work have been performed by oneUp for the customer. In that case the notice period is 6 (in words: six) months.

8.5 The customer is not entitled to sell and/or transfer the rights and/or obligations under the agreement to a third party.

9. Liability, indemnification

9.1 The total liability of oneUp on account of an attributable breach in the performance of the agreement and/or agreements ensuing therefrom or for any other reason, including any breach of a warranty obligation and/or liability based on an indemnification obligation, is limited to compensation of direct damages up to a maximum of the amount of the price (exclusive of VAT) agreed for the agreement concerned. If the agreement is a continuous performance agreement, the price agreed for the agreement is set at 3x (in words: three times) the total of the fees paid by the customer during the agreement (excluding VAT). In no event shall the total liability of oneUp for direct damage, on any legal basis whatsoever, exceed EUR 1,000,000, -- (in words: one million euros).

9.2 Exclusions and limitations of liability will lapse if and to the extent the damage is the result of intent or willful recklessness of oneUp's management.

9.3 The liability of oneUp for consequential damages, indirect damages, lost profits, reduced goodwill, missed savings, damages as a result of penalties, business interruption, claims and entitlements of customers or partners of the customer, damages related to the use of third-party software, items or other materials used by oneUp on the instruction of the customer

and damages related to the engagement of suppliers prescribed by the customer to oneUp, is excluded. Liability of oneUp on account of mutilation, destruction or loss of data or documents is also excluded.

9.4 If fulfilling the agreement is still possible, the liability of oneUp on account of attributable failure in the performance of an agreement will arise only after the customer has given oneUp a written and substantiated notice of default without undue delay, in which a reasonable term for curing the breach is given, and oneUp continues to fail imputably in the performance of its obligations even after such term.

9.5 All limitations and exclusions of liability in these general terms and conditions shall also apply for the benefit of all (legal) persons engaged by oneUp in the performance of the agreement.

10. Delivery terms

10.1 The delivery time indicated by oneUp applies only as an estimate and should not be regarded as a fatal term within the meaning of article 6:83(a) of the Dutch Civil Code. In case of late delivery, the customer must give oneUp written notice of default and allow a reasonable additional period for delivery. A delay in delivery does not entitle the customer to damages, except in case of intent or deliberate recklessness of oneUp.

10.2 oneUp is entitled to suspend deliveries until the customer has fulfilled all their outstanding payment obligations towards oneUp.

10.3 oneUp reserves the right to deliver at an earlier time than agreed upon as well as to deliver in separate parts and to invoice these partial deliveries separately.

11. Force majeure

11.1 Neither party is bound to fulfil any obligation under an agreement if prevented from doing so due to force majeure. Force majeure will in any case include force majeure of oneUp's suppliers, defectiveness of software, items, equipment or materials of third parties, the use of which has been prescribed by the customer to oneUp, as well as the circumstance that the services to be rendered cannot be provided due to long-term illness or disability in the broadest sense of the word of the person(s) who are to perform the agreed services for the customer.

11.2 Either party has the right to dissolve the agreement in writing if a force majeure situation lasts longer than ninety days. All that has been performed under the agreement shall in that case be settled proportionally, without the parties owing each other anything else.

12. Acquisition of persons employed by and/or related to oneUp

12.1 During the term of the agreement and for 1 (in words: one) year after the end thereof, the customer will refrain from employing persons working for and/or related to oneUp who are or have been involved in the execution of the agreement, or having them work for him/her without oneUp's prior written consent.

12.2 If non-compliance occurs with the acquisition prohibition, the parties have agreed on a pre-determined compensation of EUR 30,000 (in words: thirty thousand) which is immediately payable and can be charged. This compensation will not replace any damages suffered by oneUp.

13. Processing of personal data and information security

13.1 To the extent the services and/or work relate to the processing of personal data, the provisions of the General Data Protection Regulation (GDPR) shall apply and the Parties warrant that they will at all times comply with the requirements of GDPR.

13.2 If in the context of (the performance of) the services and/or work oneUp processes personal data in the capacity of processor as specified by GDPR, the parties will enter into a processor agreement.

13.3 oneUp will take appropriate technical and organisational measures to secure the information and any personal data against destruction, loss, alteration or unauthorised disclosure and unauthorised access.

14. Software development

14.1 In case of software development, parties agree on an iterative development method whereby development is done in sprints. The parties thereby accept that the specifications are not (completely) fixed at the start of the work and that during the work and after completion of a sprint, it will be determined in consultation between the parties what will be developed or modified in a subsequent sprint. The customer accepts the risk that the developed software will not necessarily fully meet all specifications. The customer shall ensure active content input and cooperation, including decision-making on further development, testing and commissioning. Commissioning of the software by the customer in a production environment will at all times constitute acceptance and delivery of software developed by oneUp.

14.2 In case of delivery of software, oneUp will use its best efforts to repair errors within a reasonable period of time, to the extent specified and reported to oneUp in writing within a period of three months after delivery or, if an acceptance test has been agreed upon, within three months after acceptance. oneUp will never be obliged to repair lost or mutilated data. In respect to errors reported after expiry of the warranty period referred to in this article, oneUp will have no obligation whatsoever, unless a separate maintenance agreement has been concluded between the parties containing such an obligation to repair.

14.3 Due to the nature of software development that may involve integration and dependency on software applications, platforms, hardware and communication connections of third parties or the customer, the customer themselves are responsible for these applications, platforms, hardware and communication connections that may affect the operation of the software developed by oneUp.

15. Applicable law, competent court

15.1 The agreements between oneUp and customer are exclusively governed by Dutch law. Applicability of the Vienna Sales Convention 1980 is excluded.

15.2 Disputes that may arise between oneUp and customer as a result of an agreement concluded between oneUp and customer or as a result of further agreements resulting therefrom, will be exclusively settled by the Court of The Hague.

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