

## General Terms & Conditions Empowr Holding B.V.

### 1. GENERAL

- 1.1** These General Terms and Conditions Employer apply to all agreements between Empowr. Holding B.V., Chamber of Commerce number 85051829 (hereinafter referred to as “**Empowr**”) and the party that has entered into an agreement with Empowr. (hereinafter referred to as “**Employer**”) for the benefit of its employees (hereinafter referred to as “**Employees**”) on the basis of which Empowr. grants the Employees of Employer access to the Platform of Empowr.

### 2. DEFINITIONS

<b>Agreement</b>	The partnership agreement between Empowr. and Employer.
<b>Budget Check</b>	The check to be performed by Empowr. if the Budget is at that time adequate, before forwarding a Partner Service purchase request of an Employee to a Partner.
<b>Commencement Date</b>	The date the Agreement enters into force, as defined in the Agreement.
<b>Consent</b>	The upfront permission required by an Employer in order for an Employee to purchase a Partner Service.
<b>Contract Period</b>	The first Contract Period starts at the Commencement Date and lasts for the Initial Period, as defined in the agreement. Any renewal period is also referred to as Contract Period.
<b>DCC</b>	Dutch Civil Code (Burgerlijk Wetboek)
<b>Employee</b>	An employee of Employer, who is granted access to the Platform by Empowr.
<b>Employer</b>	A company who has entered into an Agreement, in order to grant one or more of its Employees access to the Platform.
<b>Empowr</b>	Empowr. Holding B.V. and any legal successor thereof.
<b>Employer Portal</b>	A portal available to admin users behind the log-in at <a href="http://www.empowr.nl">www.empowr.nl</a> . In this portal, it is possible for admin users to manage the data of their Employees. Here they can add/remove or update the Employee data made available to Empowr. The Employee data consists of: firstname, last Name, e-mail, preferred language, budgettype, budget amount and if an Employee is a manager yes/no.
<b>to End</b>	The Termination or otherwise ending of the Agreement.

<b>Expert</b>	A party that enters into an agreement with Empowr. in order to offer Partner Services on the Platform to Employees.
<b>General Terms and Conditions</b>	These General Terms and Conditions, applicable to the Agreement between Empowr Holding B.V. and the Employer.
<b>Initial Period</b>	The initial duration of the Agreement, commencing on the effective date and continuing for a specified period as outlined in the Agreement.
<b>Platform</b>	The digital space accessible to Employees upon logging in at <a href="http://www.empowr.nl">www.empowr.nl</a> , providing a centralized location for various activities and resources.
<b>Party</b>	Empowr. or Employer.
<b>Parties</b>	Empowr. and Employer.
<b>Partner Services</b>	The product and/or services offered by an Expert on the Platform.
<b>Service Agreement</b>	The agreement between Employee and Expert with regard to delivery of Partner Services by an Expert to an Employee.
<b>Payment Services</b>	The services that Empowr. provides to the Expert, the Employer and Employee with regard to invoicing the Partner Service purchased by an Employee of an Expert, as detailed in the Agreement.
<b>Self Guided Care Content</b>	All the free activities that are available to Employees on the Empowr platform, such as: Masterclasses, mini-courses, challenges, personal-intakes, webinars, blogs, podcasts, manager meet-ups, video's etc.
<b>Subscription Costs</b>	The monthly fee to be paid by Employer per Employee per month to Empowr. in order to grant Employees access to the Platform and to the Start Package Services.
<b>to Terminate</b>	To unilaterally end the Agreement via “opzeggen”.

### **3. EMPOWR. SERVICES**

3.1 In case Employer purchases access to the Platform for its employees, Empowr:

- (a) offers (Employers and its) Employees access to the Platform;
- (b) offers (access to) all Self Guided Care Content; and
- (c) maintains the Platform.
- (d) offers access to the Platform to (Employers and its) Employees;

- (e) performs a Budget Check in case of a Personal Budget, requests Consent in case of a Development/Well-Being Budget or performs a Budget Check and requests Consent (unless otherwise agreed to in writing with regard to the Consent) in case of a Company Budget;
- (f) facilitates (i) that the first contact between Expert and Employee is established, by forwarding a Partner Service purchase request of an Employee to an Expert, after - if required - the Budget Check is successfully completed and Consent is obtained; and
- (g) facilitates the Payment Services.

#### **4. CONSENT AND BUDGET CHECK**

- 4.1 Employer shall communicate the new Budgets to Empowr at least 30 days before the start of a new Contract Period at the latest.
- 4.2 Employers can allocate to Employees a yearly Budget that the Employees can spend on one or multiple Experts that offer Partner Services on the Platform.
- 4.3 In case of a Personal Budget or a Company Budget, Empowr. performs a Budget Check. If the Personal Budget or the Company Budget is insufficient for a required Partner Service purchase, Empowr. shall inform the Employee that it shall not forward its Partner Service purchase request to the relevant Expert.
- 4.4 In case Consent is required, Empowr. shall request Consent of an Employer. If Consent is given (and if all other requirements are fulfilled) Empowr. shall forward a Partner Service purchase request to the relevant Expert. If Consent is denied by the Employer, Empowr. shall inform the Employee thereof and Empowr. shall not forward its Partner Service purchase request to the relevant Expert.
- 4.5 Employer can request Empowr. to request Consent, before forwarding a Partner Service purchase request of an Employee to the relevant Expert.
- 4.6 Empowr. shall invest its commercially reasonable efforts to perform its obligations related to the services as mentioned in this article.

#### **5. ACCESS TO THE PLATFORM**

- 5.1 Within 48 hours after the Commencement Date, Empowr. will send to Employer an e-mail or provide Employer access to the Employer Portal. In this e-mail or on the Employer Portal, Empowr. will ask Employer to provide the following information of the Employees:
  - (a) first name and last name;
  - (b) business e-mail address;
  - (c) managers yes or no;
  - (d) language Employees;
  - (e) Budget (Development/Well-Being Budget, Personal Budget or Discount) per Employee.

- 5.2 Within 24 hours after the (digital) kick-off, Empowr. shall send to Employees their personal login details. Subsequently Employees can finalize their account so that they get access to the Platform.
- 5.3 All accounts are personal. An account cannot be transferred to another Employee.
- 5.4 Non-completion of an account of an Employee or non-use of an account does not relieve Employer of its obligation to pay Subscription Costs for that Employee.

## **6. CHANGES IN NUMBER OF EMPLOYEES AND/OR PACKAGES**

- 6.1 During the term of the Agreement, Employer can add new Employees at all times. Adding takes place via sending an e-mail to [info@empowr.nl](mailto:info@empowr.nl) or in the Employer Portal. Employer will provide Empowr. with all the information as mentioned in article 5.1. After Empowr. received this information, Empowr. shall send the specific Employee its personal login details. Subsequently that Employee can finalize its account so that he gets access to the Platform. With regard to the Subscription Costs, Empowr. refers to article 7.
- 6.2 Employer can decide to withdraw access to the account of an Employee at all times. Employer can do this by sending an e-mail to [info@empowr.nl](mailto:info@empowr.nl) or in the Employer Portal. Employer shall provide the information as stated in article 5.1 of the relevant Employee(s). The account is terminated as of the moment Empowr. confirms the withdrawal. In case Employer decides to withdraw access of one or more Employees during a Contract Period, Empowr. will not refund the prepaid Subscription Costs to Employer as referred to in article 7.1. The obligation to pay Subscription Costs for a thus terminated account ends at the start of a new contracting year, or at the moment of Ending of the Agreement.
- 6.3 Employer can decide to increase or decrease the Personal Budget of one or more Employees or the Company Budget or the given Discount at all times. This can be arranged via an e-mail to [info@empowr.nl](mailto:info@empowr.nl) or in the Employer Portal. In case Employer wants to increase the Personal Budget, Employer shall mention the names of the Employees and their new budget. In case Employer wants to increase the Company Budget, Employer shall mention the new company budget. Within 48 hours after receiving the aforementioned information, Empowr. shall increase the Personal Budget(s) or the Company Budget.

## **7. INVOICING AND PAYMENT**

- 7.1 24 hours after the (digital) kick-off Empowr. sends an invoice to Employer for the total Subscription Costs (based on the number of Employees that get access to the Platform, as stated in the Agreement) for the first Contract Period. In case of renewal of the Agreement Empowr. shall send an invoice to Employer for the total Subscription Costs (based on the number of Employees that have an account at that time according to the Employer Portal) for that upcoming Contract Period, ultimately one day before the start of that Contract Period. Thus the Subscription Costs are an upfront payment.
- 7.2 Empowr. does not refund the Subscription Cost in the event of Ending of the Agreement during a Contract Period, unless Employer (extrajudicially) Ends the Agreement in the event of a serious attributable breach of Empowr.

- 7.3 During the Contract Period, Empowr. sends a monthly invoice for all Partner Services bought in the previous month, specifying the amount that the Employees collectively (in case of a Company Budget) and/or individually (in case of a Personal Budget) used from the Budget in the previous month and in the current Contract Period in total. Empowr. is at liberty to send an interim invoice at any time for a specific Partner Service if desired.
- 7.4 In case an Employer signs up extra Employees during the Contract Period, Empowr. will invoice the Subscription Costs for the remaining months of the Contract Period simultaneously with the monthly invoice. For example, in case an Employer signs up 1 Employee on the 25th of May. Employer will receive a monthly invoice in June, in which Subscription Costs are included for the duration of 8 months (May up until December).
- 7.5 Payment terms for all invoices of Empowr. are 30 days after invoice date. With regard to payment terms, time is of the essence. The payment terms are strict deadlines.
- 7.6 If Employer has not or not timely fulfilled its payment obligation, Empowr. shall send a demand of payment or a notice of default to Employer in writing, in which Empowr. shall grant Employer fourteen calendar days to cure the breach. If Employer does not cure the breach within the aforementioned time period, Employer shall owe interest of 1,5% per month from that moment on up until full payment and (ii) Empowr. is entitled to suspend all services to be performed under the Agreement and/or the General Terms and Conditions without Empowr. being liable to Employer.
- 7.7 All judicial and extrajudicial costs and expenses incurred by Empowr. with respect to the collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and the costs which cannot be liquidated through a court ruling and other expenses of litigation) shall be for Employer's account. The extrajudicial costs are set at at least 15% of the principal (including the in article 7.6 mentioned interest), with a minimum of € 750, exclusive of VAT. At Empowr.'s discretion, Employer may also be charged with the actual expenses.
- 7.8 Every payment by Employer shall in the first place serve to pay the judicial and extrajudicial costs and the accrued interest and shall afterwards be deducted from the oldest outstanding claim regardless of any advice to the contrary from Empowr.
- 7.9 Employer waives any right of suspension or set-off.

After the Ending of the Agreement, Empowr. shall issue a final invoice to Employer and all invoices shall be immediately due.

## **8. FEEDBACK AND COMPLAINTS**

- 8.1 In case Employer, whether or not on behalf of Employee, has a complaint and/or feedback with regards to the services of Empowr. and/or the performance of the Agreement by Empowr., Employer may always contact Empowr. via the customer service of Empowr., which can be reached via the e-mailadres: [info@empowr.nl](mailto:info@empowr.nl). Empowr. shall contact Employer by e-mail or by phone within 7 working days after receiving the complaint/feedback, in order to – if desired by Employer – reach a solution to the problem.

- (a) suspend its performance under the Agreement; or
- (b) completely or partially Terminate the Agreement.

10.3 If Empowr. Terminates the Agreement on the basis of article 10.1 or 10.2, that does not affect Empowr's right to claim damages from Employer. Ending of the Agreement shall not lead to any undoing commitments (art.6:271 DCC).

## **11. PRIVACY**

- 11.1 If any information to be provided by Employer contains personal data, Employer shall ensure and warrant that it will obtain all necessary consents to collect, use and disclose such personal data for the relevant purposes, and that this personal data is collected and further provided to Empowr. in accordance with the requirements laid down in the law and regulations regarding data protection, such as the General Data Protection Regulation (EU) 2016/679. Employer shall inform its Employees correctly about the use of their personal data by Empowr. at the time of collecting such personal data and/or obtaining the necessary consent.
- 11.2 Employer ensures that the personal data of its Employees provided to Empowr. in the framework of the Agreement and the access and use of the Platform by the Employees is accurate.
- 11.3 Both Parties ensure that they are in full compliance with their respective obligations under the applicable law and regulations regarding data protection, such as the General Data Protection Regulation (EU) 2016/679.

## **12. FORCE MAJEURE AND UNFORSEEN CIRCUMSTANCES**

- 12.1 Any failure in (timely) performing any obligation towards Employer, cannot be attributed to Empowr. (in the sense of article 6:75 DCC), if it is caused by any circumstance beyond its reasonable control, including, without limitation, power and/or internet failure, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, hacking, accident, (governmental measures in relation to a) epidemic/pandemic, strike, lockout, slowdown, labor disturbances, (commercial or factual) difficulty in obtaining necessary labor or raw materials, lack of or failure of transportation, breakdown of essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in delivery or defects in goods supplied by suppliers or subcontractors, default of any contracting party of Empowr., amongst others the Experts ("Force Majeure").
- 12.2 In case of unforeseen circumstances that lead to Employer not being able to reasonably expect (unchanged) fulfillment of the Agreement from Empowr., Empowr. is authorized to suspend fulfillment of its obligations. If this situation (is expected to) last(s) longer than four weeks, Empowr. is authorized to Terminate the Agreement, without being held to pay any damages to Employer.

### **13. WAIVER**

13.1 Failure by Empowr. to enforce at any time any provision of the Agreement or General Terms and Conditions shall not be construed as a waiver of Empowr's right to act or to enforce any such term or condition and Empowr's rights shall not be affected by any delay, failure, or omission to enforce any such provision. No waiver by Empowr. of any breach of Employer's obligations shall constitute a waiver of any other prior or subsequent breach.

### **14. FORFEITURE OF RIGHTS**

14.1 Notwithstanding the statutory due dates, any claim of Employer against Empowr. shall in any event expire by the lapse of one year from the time the service has been performed by Empowr. to which the complaint/claim relates.

### **15. LANGUAGE**

15.1 The original version of the General Terms and Conditions is made in the English language. In the event of any inconsistency or contradiction between the English version and any translation thereof, the English version shall prevail.

### **16. MISCELLANEOUS**

16.1 Without prior written consent of Empowr, Employer is not entitled to transfer its rights and/or obligations under the Agreement in whole or in part to another party. Empowr. is entitled to transfer its rights and/or obligations under the Agreement in whole or in part to another party, without the need for (prior) (written) consent of Employer, or at least that the prior written consent shall be deemed to have been given to Empowr. by Employer.

16.2 All Agreements are accepted and executed by Empowr. exclusively with the exclusion of articles 7:404, 7:407(d) and 7:408(1) DCC.

16.3 Amendments to the Agreement are only valid in case they are confirmed in writing by the Parties.

16.4 In the event that Employer discovers a defect, Employer has to complain in writing about the defect to Empowr. within 6 weeks after discovery of the defect, in the absence of which Employer loses all his rights and powers which it would have been able to exert (based on law or agreement) regarding the defect.

16.5 Empowr. is at all times entitled to unilaterally amend the General Terms and Conditions. Amendments also apply to all previous agreements. Amendments enter into force one month after publication by means of written communication (including email) by Empowr. to Employer incorporating the amended General Terms and Conditions. Employer has the right to refuse these amendments by registered letter if Employer does not wish to accept these amendments, until they come into force. If Employer fails to do so, it shall be deemed to have accepted the amendments after the time of coming into force.

**17. GOVERNING LAW AND DISPUTE RESOLUTION**

- 17.1 The Agreement is governed by and shall be construed in accordance with the laws of the Netherlands.
- 17.2 All disputes in connection with the Agreement and/or any other agreement entered into execution of or in connection with the Agreement shall be submitted exclusively to the competent court of the district court of Amsterdam, location Amsterdam.

**18. CONFIDENTIALITY**

- 18.1** Empowr and Employer are obligated to maintain confidentiality regarding any confidential information obtained from each other within the scope of their agreement or from any other source (including research findings, reports, and information regarding the utilized models, strategies, processes, and practices of Employer), and shall not use such information for purposes other than the execution of said agreement.