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General Terms and Conditions ArtiFunct

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Article 1 - Definitions

1. Contractor: ArtiFunct, located in Nijmegen, Chamber of Commerce number 91811937.
2. Customer: the party with whom the contractor has entered into an agreement.
3. Parties: contractor and customer together.
4. Consumer: a Customer who is also an individual and who acts as a private person.

Article 2 - Applicability

1. These terms and conditions apply to all quotations, offers, work, orders, agreements, and deliveries of services or products by or on behalf of the contractor.
2. The contractor and the Customer can only deviate from these terms and conditions if agreed upon in writing.
3. The contractor and the Customer explicitly exclude the applicability of the Customer's or others' general terms and conditions.

Article 3 - Offers and Quotations

1. Offers and quotations from the contractor are non-binding, unless expressly stated otherwise.
2. An offer or quotation is valid for a maximum of 1 month, unless stated otherwise in the offer or quotation.
3. If the Customer does not accept an offer or quotation within the applicable period, the offer or quotation expires.

4. Offers and quotations do not apply to subsequent orders, unless agreed upon in writing by the contractor and the Customer.

Article 4 - Acceptance

1. Upon acceptance of a non-binding offer or quotation, the contractor may still withdraw the offer or quotation within 3 days of receiving the acceptance, without the Customer having any rights thereto.
2. Oral acceptance by the Customer only binds the contractor after the Customer has confirmed it in writing or electronically.

Article 5 - Prices

1. The contractor uses prices in euros, excluding VAT and any other additional costs such as administration or shipping costs, unless otherwise agreed upon in writing.
2. The contractor may change the prices of its services and products on its website and in other communications at any time.
3. Increases in the costs of products or components thereof, which the contractor could not foresee at the time of making the offer or entering into the agreement, may lead to price increases.
4. The consumer has the right to cancel an agreement due to a price increase in clause 3, unless the increase is the result of a legal regulation.

Article 6 - Payments and Payment Terms

1. The Customer must pay an invoice to the contractor within 14 days of the invoice date, unless otherwise agreed upon or a different payment term is stated on the invoice.
2. Payment terms are considered as strict deadlines for payment. This means that if the Customer has not paid the amount by the last day of the payment term, they are automatically in default, without the contractor having to send a reminder or put them in default.
3. The contractor may make a delivery dependent on immediate payment or may require security for the total amount of the services or products.

Article 7 - Consequences of Late Payment

1. If the Customer fails to pay within the agreed period, the contractor may charge statutory interest of 8% per month for commercial transactions from the day the Customer is in default, with a portion of a month counted as a whole month.
2. When the Customer is in default, they must also pay extrajudicial collection costs and any damages to the contractor.
3. The collection costs are calculated in accordance with the Decree on Compensation for Extrajudicial Collection Costs.
4. If the Customer does not pay on time, the contractor may suspend its obligations until the Customer has paid.
5. In the event of liquidation, bankruptcy, attachment, or moratorium on payment on the part of the Customer, the contractor's claims against the Customer become immediately due and payable.
6. If the Customer refuses to cooperate in the execution of the agreement by the contractor, they must still pay the agreed price.

Article 8 - Right of Reclamation

1. If the Customer is in default, the contractor may invoke the right of reclamation regarding the unpaid products delivered to the Customer.
2. The contractor exercises its right of reclamation by means of a written or electronic notification to the Customer.
3. Once the Customer has been notified of the invoked right of reclamation, they must immediately return the relevant products to the contractor, unless otherwise agreed upon in writing.
4. The Customer bears the costs for the retrieval or return of the products in clause 3.

Article 9 - Right of Suspension

1. The Customer hereby waives the right to suspend the performance of any obligation arising from this agreement.

Article 10 - Right of Retention

1. The contractor may exercise its right of retention and in that case retain products of the Customer until the Customer has paid all outstanding invoices to the contractor, unless the Customer has provided sufficient security for those costs.
2. The right of retention also applies based on previous agreements for which the Customer still owes money to the contractor.
3. The contractor is not liable for any damages incurred by the Customer due to the exercise of its right of retention.

Article 11 - Set-off

1. The Customer waives the right to set off a debt to the contractor against a claim on the contractor.

Article 12 - Retention of Title

1. The contractor retains ownership of all delivered products until the Customer has paid all outstanding invoices of the contractor relating to an underlying agreement, including claims due to non-performance.
2. Until such time as stated in clause 1, the contractor may exercise its retention of title and reclaim the goods.
3. Before ownership passes to the Customer, the Customer may not pledge, sell, alienate, or encumber the products in any way.
4. If the contractor exercises its retention of title, the agreement is thereby terminated, and the contractor may demand compensation, lost profits, and interest from the Customer.

Article 13 - Delivery

1. Delivery takes place while stocks last.
2. Delivery takes place at the contractor's premises unless otherwise agreed.
3. If the Customer does not pay the agreed amounts or does not pay them on time, the contractor may suspend its obligations until the Customer pays.
4. Late payment constitutes default by the creditor, which means the Customer cannot oppose a delayed delivery to the contractor.

Article 14 - Delivery Time

1. The delivery times provided by the contractor are indicative. If delivery is later, the Customer cannot derive any rights from this unless otherwise agreed in writing.
2. The delivery time starts when the quotation signed by the Customer for approval is

confirmed by the contractor to the Customer in writing or electronically.

3. The Customer is not entitled to compensation and may not terminate the agreement if the contractor delivers later than agreed. However, the Customer may terminate the agreement if this is agreed in writing or if the contractor cannot deliver within 30 days after being requested to do so in writing or if the Customer and the contractor have agreed otherwise.

Article 15 - Actual Delivery

1. The Customer must ensure that the actual delivery of their ordered products can take place on time.

Article 16 - Transport Costs

1. The Customer bears the costs of transport unless otherwise agreed upon in writing between the Customer and the contractor.

Article 17 - Packaging and Shipping

1. If the packaging of a delivered product is opened or damaged, the Customer must have the carrier make a note of this before accepting the product. Failure to do so means the Customer cannot hold the contractor liable for any damages.

2. If the Customer arranges the transport of a product themselves, they must report any visible damage to the products or packaging to the contractor before transportation. Failure to do so means the Customer cannot hold the contractor liable for any damages.

Article 18 - Storage

1. If the Customer takes delivery of ordered products later than the agreed delivery date, the risk of any potential loss in quality lies entirely with the Customer.

2. Any additional costs incurred due to premature or delayed acceptance of products are entirely the responsibility of the Customer.

Article 19 - Warranty

1. The warranty on products applies only to defects caused by faulty manufacturing or construction, or faulty materials.

2. The warranty does not apply:

- In the case of normal wear and tear
- For damage caused by accidents

- For damage caused by alterations made to the product
 - For damage due to negligence or improper use by the Customer
 - When the cause of the defect cannot be clearly determined
3. The risk of loss, damage, or theft of the products that are the subject of an agreement between the parties passes to the Customer at the moment they are legally and/or physically delivered, or at least when they come into the possession of the Customer or a third party receiving the product on behalf of the Customer.

Article 20 - Indemnification

1. The Customer indemnifies the contractor against all claims from third parties related to the products and/or services provided by the contractor.

Article 21 - Complaints

1. The Customer must examine a product delivered by the contractor or a service rendered by them for any deficiencies as soon as possible.
2. If a delivered product or rendered service does not meet what the Customer could reasonably expect, the Customer must notify the contractor of this within 1 week of discovering the deficiency.
3. The Customer must provide a detailed description of the deficiency so that the contractor can respond appropriately.
4. The Customer must demonstrate that the complaint relates to an agreement between the Customer and the contractor.
5. When a complaint concerns ongoing work, the Customer cannot demand that the contractor perform other work than what was agreed upon.

Article 22 - Notice of Default

1. The Customer must communicate any notice of default to the contractor in writing.
2. The Customer is responsible for ensuring that their notice of default reaches the contractor on time.

Article 23 - Customer Liability

1. When the contractor enters into an agreement with multiple Customers, each of them is jointly and severally liable for fulfilling the commitments in that agreement.

Article 24 - Contractor's Liability

1. The contractor is only liable for damage suffered by the Customer if that damage is

caused by intent or conscious recklessness of the contractor.

2. When the contractor is liable for damages, it only applies to direct damage related to the execution of an underlying agreement.

3. The contractor is not liable for indirect damage, such as consequential loss, loss of profit, or damage to third parties.

4. When the contractor is liable, this liability is limited to the amount paid out by a (professional) liability insurance policy. If no insurance is taken out or no amount is paid out, liability is limited to the (part of the) invoice amount to which the liability relates.

5. All images, photos, colors, drawings, descriptions on the website or in a catalog/brochure are merely indicative and cannot lead to any compensation, dissolution, or suspension.

Article 25 - Expiry Period

1. Any right of the Customer to compensation from the contractor expires 12 months after the event from which the liability directly or indirectly arises. This does not exclude what is stipulated in Article 6:89 of the Dutch Civil Code.

Article 26 - Termination

1. The Customer may terminate the agreement if the contractor culpably fails to fulfill his obligations, unless this failure does not justify termination due to its special nature or minor significance.

2. If the performance of obligations by the contractor is still possible, termination can only take place after the contractor is in default.

3. The contractor may terminate the agreement with the Customer if the Customer does not fully or timely fulfill their obligations under the agreement, or if the contractor becomes aware of circumstances that give him good reason to believe that the Customer will not fulfill their obligations.

Article 27 - Force Majeure

1. In addition to Article 6:75 of the Dutch Civil Code, it is stipulated that a failure by the contractor cannot be attributed to the contractor when force majeure occurs.

2. The force majeure situation in clause 1 includes, among other things:

1. a state of emergency such as civil war or natural disaster
2. default or force majeure of suppliers, delivery services, or others
3. power outages, internet, computer, or telecommunication failures
4. computer viruses
5. strikes
6. government measures

7. transportation problems
 8. adverse weather conditions
 9. labor strikes
3. When a force majeure situation arises which prevents the contractor from fulfilling one or more obligations to the Customer, those obligations shall be suspended until the contractor is able to fulfill them.
4. From the moment a force majeure situation has lasted at least 30 calendar days, both the Customer and the contractor may terminate the agreement in whole or in part in writing.
5. In a force majeure situation, the contractor is not obliged to compensate the Customer, even if the contractor benefits from it.

Article 28 - Amendment of Agreement

1. If it is necessary to amend a concluded agreement for its execution, the Customer and the contractor may adjust the agreement.

Article 29 - Amendment of General Terms and Conditions

1. The contractor may amend these general terms and conditions.
2. Minor changes may always be made by the contractor.
3. Significant changes will be discussed with the Customer as much as possible before they take effect.
4. In case of significant changes to the general terms and conditions, a consumer may terminate the underlying agreement.

Article 30 - Transfer of Rights

1. The Customer may not transfer rights from an agreement with the contractor to others without the written consent of the contractor.
2. This provision constitutes a clause with property law effect as referred to in Article 3:83 paragraph 2 of the Dutch Civil Code.

Article 31 - Consequences of Nullity or Voidability

1. If one or more provisions of these general terms and conditions are declared null or voidable, this shall not affect the other provisions of these terms and conditions.
2. A provision that is null or voidable shall be replaced by a provision that comes closest to what the contractor intended at the time of drafting the terms and conditions on that point.

Article 32 - Applicable Law and Jurisdiction

1. Dutch law applies to these general terms and conditions and to any underlying agreement between the Customer and the contractor.
2. The court in the district of the contractor's place of establishment shall have exclusive jurisdiction to hear any disputes between the Customer and the contractor, unless the law provides otherwise.

Drawn up on November 6, 2023, in Nijmegen.