

## GENERAL TERMS AND CONDITIONS I&DT B.V. ('I&DT')

### Artikel 1 Article 1 General

- 1.1 These General Terms and Conditions govern the formation, interpretation and implementation of all Agreement(s) to be concluded by I&DT (hereinafter the '**Agreement**') with third parties (hereinafter the '**Principal**') with respect to services and facilities to be provided by I&DT in areas including but not limited to advising about, developing and/or providing and/or installing and/or maintaining software and/or software applications, as well as all other services (including data hosting and/or web hosting, consultancy services with respect to automation issues, helpdesk services, etc.) (hereinafter the '**Services**').
- 1.2 I&DT explicitly does not accept the general terms and conditions of the Principal or of third parties and such general terms and conditions do not form part of the Agreement concluded by I&DT and the Principal unless they are explicitly accepted by I&DT in writing. The Principal is deemed to have accepted the exclusive applicability of these General Terms and Conditions.
- 1.3 All Agreements, offers, quotations and/or registrations from I&DT (together with third parties or otherwise) are governed exclusively by these General Terms and Conditions, as well as the provisions and/or content of the order confirmation that I&DT provides to the Principal (including any appendices), unless the parties have agreed otherwise in writing.

### Artikel 2 Article 2 Formation of the Agreement

- 2.1 All offers and/or quotations from I&DT are made without commitment and are valid for a period of 30 days, unless the parties have agreed otherwise in writing.
- 2.2 Agreements between I&DT and the Principal are concluded by means of and at the time of written acceptance by I&DT of an order submitted by the Principal.
- 2.3 The Services will be scheduled and performed by I&DT after it has received the validly signed Agreement. If and insofar as the Principal accepts I&DT's services without those services having been agreed in writing there will be deemed to be a *de facto* Agreement and all of the provisions contained in these General Terms and Conditions will apply.

### Artikel 3 Article 3 Term and termination of the Agreement

- 3.1 Every Agreement concluded by I&DT and the Principal will be deemed to be open-ended unless parties have agreed otherwise in writing by Agreement. The Services to be performed by I&DT will be available to the Principal after completion by I&DT unless the parties have agreed otherwise in the Agreement. If an Agreement is entered into for a fixed term, that Agreement will be repeatedly tacitly renewed by the same term unless the Principal gives written notice of termination of the Agreement three months before the Agreement ends.
- 3.2 I&DT is entitled to terminate an open-ended Agreement in writing with due observance of a one-month notice period. However, if and insofar as there are weighty reasons or circumstances as a result of which it is not reasonably possible for I&DT to complete or continue the Agreement, I&DT may terminate the Agreement effective immediately without observing any notice period. I&DT does not accept any liability towards the Principal for the termination of the Agreement on the ground of weighty reasons.

- 3.3 There may be weighty reasons in situations including but not limited to the Principal's being declared bankrupt or if the Principal files a petition for bankruptcy with the competent court, if an application for a suspension of payments is filed or granted, if the Principal ceases business operations or if the Principal fails to provide I&DT with the instructions and/or information required to perform the Agreement.
- 3.4 The Principal is entitled to terminate the Agreement in writing without observing any notice period. Such premature termination is without prejudice to I&DT's right to payment by the Principal of the agreed fee in respect of the work that has already been performed and I&DT's right to compensation of any damage. Such damage includes but is not limited to the costs that I&DT has incurred in preparation for the work, such as, but not limited to, the costs incurred in respect of Services that have already been supplied or performed, production capacity that has been reserved, materials that have been purchased or services engaged from third parties, as well as reasonable compensation for lost profit and/or turnover.

#### **Artikel 4 Article 4 Payments**

- 4.1 The Principal will be invoiced for the Services to be provided by I&DT on the basis of the rates and prices referred to in the Agreement. All of the rates and prices that I&DT will charge the Principal are exclusive of VAT.
- 4.2 The Principal must transfer all payments to a bank account to be indicated by I&DT, quoting the name and reference of the work or assignment. In principle the Principal will be charged for all Services on a monthly basis unless I&DT and the Principal have agreed otherwise (either a fixed price or in separate instalments). I&DT is at all times entitled to send an advance bill and/or to demand a form of security before commencing the work.
- 4.3 The Principal must make all payments to I&DT within 14 days of the invoice date, regardless of whether the Principal has made use of the Services provided and/or the facilities offered, unless I&DT and the Principal have explicitly agreed otherwise in writing. The term referred to in this paragraph constitutes a strict deadline. If the Principal provides an authorisation for payment by direct debit it must ensure that there is a sufficient balance and that the bank or giro has been given permission to deduct the relevant amounts. If I&DT is unable to collect an amount the Principal will ensure that payment is nonetheless made within 14 days of the invoice date.
- 4.4 If I&DT incurs extra costs or has to work overtime or if I&DT must provide supplemental Services due to actions or omissions on the part of the Principal, I&DT will be entitled to charge the Principal separately for those supplemental Services at the customary rate. The Principal accepts that I&DT's provision of supplemental Services could have an effect on the agreed or anticipated time of completion of the Services.
- 4.5 If the Principal fails to make one or more payments within the agreed term it will be deemed to be in default without any notification being required, in which case the Principal will be obliged to pay 2% default interest a month on the amount of the outstanding invoice, inclusive of statutory interest, in addition to the principal amount due.

#### **Artikel 5 Article 5 Principal's breaches**

- 5.1 If the Principal is in default or otherwise fails in the performance of its obligations pursuant to the Agreement, I&DT will be entitled to suspend the Services to the Principal effective immediately for an indefinite period of time and to retain any software and/or materials and/or products and/or facilities produced by it or by third parties it has engaged until the time at which the Principal has paid the debt(s) owed to I&DT. In particular, I&DT will be entitled to discontinue the relevant website and domain names (on either a temporary or permanent basis).
- 5.2 Under the circumstances referred to in the preceding paragraph, all reasonable legal and extrajudicial costs and the damage suffered by I&DT and by third parties it has engaged that is caused by the Principal's default or other breach will be paid by the Principal. In that context the amount of the extrajudicial costs is set at 15% of the amount of the total contractual debt owed to I&DT, with a minimum of EUR 500 (in words: five hundred euros) or the actual extrajudicial costs if they exceed that amount.

#### **Artikel 6 Article 6 Principal's obligations**

##### General obligations

- 6.1 The Principal will at all times provide I&DT with all useful and necessary information for the proper performance of the Agreement and will fully cooperate with I&DT.
- 6.2 If the parties have agreed that the Principal will make available software, materials or information on data carriers they will comply with the specifications necessary to perform the work.
- 6.3 If the Principal fails to make available to I&DT the information necessary to perform the Agreement, fails to make that information available in a timely manner or fails to make that information available in accordance with the written agreements made, I&DT will be entitled to suspend performance of the Agreement and charge the related costs on the basis of customary rates.
- 6.4 The Principal will be obliged to compensate any damage that it causes to I&DT or to third parties due to a violation of the provisions contained in these General Terms and Conditions or the Agreement or otherwise. The Principal indemnifies I&DT against any claims of third parties and any damage incurred by third parties in any manner whatsoever, including damage caused by the Principal's use of I&DT's Services.
- 6.5 The Principal must inform I&DT in writing within 24 hours of discovering a possible dysfunction, breakdown or alleged liabilities of I&DT, and the Principal will give I&DT a reasonable term in which to make repairs; if the Principal fails to provide I&DT with that information in a timely manner, the Principal will lose the right to receive any compensation. If the damage incurred is attributable to I&DT, the compensation may in no event exceed the amount invoiced to the Principal concerned.
- 6.6 If employees of I&DT are to perform work at the Principal's location, the Principal must ensure that the facilities that those employees reasonably require are provided free of charge, including but not limited to a workroom with telecommunication facilities, etc. The Principal will indemnify I&DT against claims of third parties, including I&DT's employees, who incur damage in connection with the performance of the Agreement as a result of an act or omission on the part of the Principal or as a result of unsafe situations at the Principal's organisation.

- 6.7 The Principal will not make available to third parties that offer services similar to those offered by I&DT or to affiliated legal entities or natural persons the information acquired from I&DT, applications and/or documentation, log-in details, user IDs or passwords.
- 6.8 The Principal will not use the facilities made available by I&DT for acts and/or conduct that is contrary to the law, public morality, public order, the Agreement or these General Terms and Conditions. This includes but is not limited to the following acts and conduct: distributing child pornography, sexual harassment, spamming, infringement of works protected by copyright or other acts that are contrary to the intellectual property rights of third parties, otherwise harassing persons, breaking into other computers on the Internet without permission in which context the Principal penetrates any security wall and/or obtains access by means of a technical act with the aid of false signals or a false key, or assuming a false identity.

The Principal's special obligations in respect of web hosting

- 6.9 Notwithstanding the provisions contained in Article 6.4, the Principal will not use or rent out its web hosting facilities for texts, images, recommendations, advertisements or other publicity that relates to pornographic material, warez sites, illegal software sites, mp3 sites, chat sites, webcam sites, etc.
- 6.10 If domains are moved to I&DT, the Principal is responsible for terminating the agreement with the relevant provider in a timely manner and obtaining that provider's authorization if necessary. However, the Principal will still be obliged to pay for the Services that I&DT has already provided regardless of whether or when the Principal's present or former provider cooperates.
- 6.11 If the Principal moves its domains or has them moved from I&DT to another provider, the provisions contained in the Agreement and in these General Terms and Conditions will continue to apply in full until the Principal has given notice of termination in accordance with the provisions contained in Article 3. I&DT will be entitled to refuse to cooperate in moving domains to another provider if the Principal's termination is wrongful. The rights related to unpaid domains accrue to I&DT and all damage and costs arising from attachments and other measures in connection with related collections will be paid by the Principal in their entirety.
- 6.12 The Principal will in no event damage the hardware and software of I&DT or others or use the Services for hacking, sniffing, DOS attacks, TI&DT/SYN, SPOOF or other similar activities. In addition, the Principal will not remove from the facility made available by I&DT the security in respect of third parties or have such security removed, and the Principal will not expand the facility made available by I&DT with security in respect of third parties or have the facility expanded with such security.
- 6.13 The Principal will not send any spam or instruct others to do so. The Principal will not give any assignments to third parties that distribute mailings in newsgroups (equivalent to spam) or otherwise send e-mails in large numbers. Violation of this Article will be deemed a weighty reason within the meaning of Article 3.2
- 6.14 In the event that the Principal violates one or more provisions contained in this Article it will forfeit a penalty due on call to I&DT in the amount of EUR 25,000, as well as a penalty in the amount of EUR 5,000 for each day on which the violation continues, without prejudice to I&DT's right to recover from the Principal the actual damage incurred.

#### **Artikel 7 Article 7 Changes and additional work**

- 7.1 If I&DT has performed any work or provided services – at the Principal’s request – that fall outside the scope of the Agreement, the Principal will pay for that work or those services on the basis of I&DT’s customary hourly rate. Expansion of or changes to a system analysis, a design or specifications will also be deemed additional work. I&DT will in no event be obliged to comply with such a request, and I&DT may demand that a separate written agreement be concluded in that respect.
- 7.2 The Principal accepts that the work or services referred to in Article 7.1 could have an effect on the agreed or anticipated time of completion of the Services and the mutual responsibilities of the parties. The fact that additional work or a request for additional work arises during the performance of the Agreement will in no event constitute a ground on the basis of which the Principal may dissolve or terminate the Agreement.
- 7.3 Insofar as a fixed price has been agreed upon for the provision of services, if so requested I&DT will provide written information in advance regarding the financial consequences of that extra work.
- 7.4 In special cases in which I&DT is of the opinion that it is necessary to provide updates and/or make modifications of the software for the security and/or functioning of software and/or data – during a maintenance period as defined in the Agreement to be concluded with I&DT – I&DT will provide such updates to the Principal or make such modifications free of charge unless the parties have agreed otherwise in writing by Agreement.

#### **Artikel 8 Article 8 Liability**

- 8.1 I&DT is in no way responsible for liabilities that the Principal accepts vis-à-vis third parties or that otherwise arise for the Principal in connection with the Agreement with I&DT (or the performance of the Agreement). In addition I&DT is not liable for damage to data carriers of the Principal (or those of third parties) caused by I&DT’s hardware or software or for any resulting damage or costs.
- 8.2 I&DT is responsible only for damage caused by defects in the Services provided by I&DT or damage caused to the Principal’s property if and insofar as such damage is caused by an intentional act or gross negligence on the part of I&DT. Any liability on the part of I&DT is limited to the amount of the invoice(s) that I&DT charges to the Principal.
- 8.3 I&DT is not responsible for the tools and software of third parties, either on third parties’ servers or on the local hardware with which the Principal works, unless the Principal and I&DT have agreed otherwise in writing.
- 8.4 The Principal indemnifies I&DT against claims of third parties against I&DT in respect of the Services that I&DT provides to the Principal.
- 8.5 The rules contained in the preceding Articles in respect of liability and indemnification also apply for the benefit of I&DT’s subordinates and for the benefit of parties that I&DT engages for the performance of the Agreement.

#### **Artikel 9 Article 9 Intellectual property rights and industrial property rights**

- 9.1 I&DT at all times retains all intellectual property rights and/or industrial property rights in respect of all items that are used by the Principal or that are given for use (including but not limited to software, technical documentation, IP numbers and other tools and/or ideas and/or creations). This implies that the Principal may not reproduce any of I&DT’s intellectual and/or industrial ideas or creations in any manner whatsoever without I&DT’s explicit written permission.

- 9.2 The Principal is granted only the right to use the software at its own company or organisation insofar as appropriate in relation to the object of the Agreement. The source code of the software and the technical documentation compiled when the software was developed can be provided to the Principal only if and insofar as this has been explicitly agreed in writing. I&DT may demand reasonable compensation if a court orders I&DT to make the source code and/or the technical documentation available to the Principal.
- 9.3 I&DT is not liable for any infringement of intellectual property rights or industrial property rights of third parties. The Principal indemnifies I&DT against all claims of third parties for compensation of damage resulting from any infringement of intellectual property rights or industrial property rights. This explicit indemnification applies for an indefinite period of time as from the time at which the Agreement between I&DT and the Principal is concluded.
- 9.4 I&DT is at no time obliged to determine the lawful intellectual property rights and/or industrial property rights of the Principal in respect of the materials and/or Services provided pursuant to the Agreement.
- 9.5 If the Principal infringes I&DT's intellectual property rights or industrial property rights it will forfeit a penalty on call in favour of I&DT in the amount of EUR 75,000, as well as the amount of EUR 7,500 for each day the infringement continues.

**Artikel 10 Article 10 Guarantee**

- 10.1 The Principal\* gives a guarantee up to three months after the Agreement has ended in respect of demonstrable errors in the software provided, unless the parties agree otherwise in writing.
- 10.2 The Principal has no right to a guarantee if it and/or third parties that it has engaged modify and/or change I&DT's software.

**Artikel 11 Article 11 Force majeure**

- 11.1 Breaches on the part of I&DT in respect of the performance of the Agreement as a result of, including but not limited to, strikes, lockouts, fire, machinery breakdown or operational failures either at I&DT or at its suppliers of goods or services, transport failures and other events that are outside of its power such as war, blockades, riots, epidemics, accidents, devaluation, floods and storms, power failures, sudden increases in import duties and excise duties and/or other duties and taxes, delays in the supply of goods or services by suppliers or the failure of suppliers to supply goods or services will be deemed not to be attributable to I&DT and will not entitle the Principal to dissolve the Agreement or to any compensation.
- 11.2 In the event of *force majeure* I&DT is entitled to suspend performance of the Agreement in whole or in part or to dissolve the Agreement in whole or in part.

**Artikel 12 Article 12 Consultation**

- 12.1 I&DT will perform the Services to the best of its ability in accordance with the provisions contained in the Agreement. All Services will be provided on the basis of the I&DT's duty to perform to the best of its ability, unless the parties explicitly agree otherwise in writing.

- 12.2 I&DT is entitled to adjust the agreed rates for the Services on the ground of a subsequent increase in cost-determining factors, among other things in accordance with the Consumer Price Index of the Dutch Central Bureau of Statistics (*Centraal Bureau voor de Statistiek*), and to immediately charge the Principal the adjusted rates. If possible I&DT will inform the Principal in advance in this respect.
- 12.3 In the event that the Principal dies, in the event that the Principal's undertaking merges with a third party or in the event that the Principal's undertaking is transferred to a third party, the Agreement will continue in the name and for the account of the Principal's legal successors, unless the parties have agreed otherwise in writing.
- 12.4 In the event that one or more provisions contained in these General Terms and Conditions are non-binding, null and void or voidable, the other provisions contained in these General Terms and Conditions will remain in effect. In such cases the parties will negotiate in order to amend these General Terms and Conditions such that they are as close as possible to the purport and purpose of these General Terms and Conditions.
- 12.5 If one or more provisions contained in these General Terms and Conditions are contrary to the provisions contained in the Agreement, the provisions contained in the Agreement will prevail.

**Artikel 13 Article 13 Disputes and applicable law**

- 13.1 Any disputes that may arise further to these General Terms and Conditions and/or the Agreement between I&DT and the Principal will be resolved exclusively by the competent court of Amsterdam, the Netherlands, unless I&DT and the Principal agree otherwise in writing.
- 13.2 The Agreement that is governed by these General Terms and Conditions, and all offers made by I&DT, are governed exclusively by Dutch law. The applicability of the Vienna Sales Convention is explicitly excluded.