

TERMS & CONDITIONS GEN25

1. General

- 1.1 In these Gen25 Terms & Conditions (hereinafter to be called: '*Terms*'), the following notions in these Terms and related documents will have the following meaning:

'Agreement': any agreement and/or legal relationship(s) of any nature between Parties in respect of the provision of the Services, any amendment thereof or supplement thereto, as well as all acts related to performance of the Agreement(s);

'Business Day': a calendar day from 08.30 until 17.00 hour in the Netherlands, except for weekends and national holidays in the Netherlands;

'Customer': any person or legal entity with whom Gen25 wishes to enter into, enters into or has entered into a legal relationship;

'Gen25': Gen25 B.V. or one of its affiliates, with which Customer has entered or is entering into an Agreement;

'Order': any request by Customer to Gen25 to enter into an Agreement concerning the provision of Services;

'Party' or *'Parties'*: Customer and/or Gen25;

'Proposal': any proposal and/or offer by Gen25 to Customer concerning the provision of Services as well as matters relating thereto;

'Services': all services to be made available in any way by or on behalf of Gen25 and/or activities to be carried out, of whatever nature for Customer;

'Supplier': supplier(s) and/or subcontractor(s) of Gen25.

- 1.2 These Terms shall apply to all Proposals, Orders and/or Agreements. Parties agree and recognize explicitly that no other general (and/or special) purchasing, delivery or other conditions shall apply thereto than these Terms. These Conditions may only be deviated from with prior explicit permission from Gen25 and agreement in writing on this matter between Parties.
- 1.3 Should one or more provision of these General Conditions be null and void or be nullified, the remaining provisions of these General Conditions shall remain in full force and Parties shall consult in order to agree new provisions to replace the null and void or nullified provision(s), whereby as far as possible the objective as well as the nature and tenor of those provisions shall be taken into consideration.

2. Agreement

- 2.1 All Proposals of Gen25 shall be without engagement and shall consequently only be deemed to be an invitation to place an Order, except if a term of validity is stated expressly in the Proposal. If a term of validity is not stated in the Proposal, then the Proposal is valid for a period of fourteen (14) calendar days, thereafter the Proposal will legally expire.
- 2.2 An Agreement shall only be considered as valid and concluded when and after (i) Gen25 has expressly confirmed said Agreement by post, e-mail or other means of (digital) communication customary in the market, or (ii) Gen25 carries out acts from which it is apparent that Gen25 has accepted the Order.
- 2.3 If there is a question of supplementary work, Gen25 shall so advise Customer at the earliest opportunity and will advise him of the consequences thereof in terms of prices, fees, specifications, schedules and terms. Amendments and/or supplements desired by Customer to deliveries of Services and/or Services agreed between Parties shall only take effect after approval in writing by Gen25. As supplementary work is considered: any amendments and/or supplements that, in Gen25's view, may lead to such deliveries becoming more difficult or extensive. This supplementary work shall - in the case that Gen25 accepts the desired difficulty or extension - be invoiced to Customer separately, also if Parties had previously agreed a fixed price.
- 2.4 Gen25 retains the right to outsource and/or transfer its rights and obligations from any Agreement wholly or in part, after prior written consent of Customer. Customer shall not have the right to cancel and/or transfer any Agreement (wholly or in part).

3. Services

- 3.1 The provision of Services shall take place against a date set by Gen25 at its discretion, and on a case by case basis as set forth in Exhibit A of the Agreement, unless otherwise explicit agreed in writing by Parties, and Gen25 is authorized to deliver the Services in parts and to request payment for each (sub)delivery, unless otherwise agreed by Parties in writing.

- 3.2 Except as otherwise explicit agreed upon in writing between Parties, the Services will be provided on an 'as-is' basis and shall be considered to be accepted unconditionally at the moment of first delivery. Any use of the Services by or on behalf of Customer and any (direct and indirect) consequences thereof are at the expense and risk of Customer. Unless the particular as in this Terms, Gen25 expressly disclaims and Customer expressly waives, all other warranties, express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose as far as possible by law. Gen25 is entitled after notification by email (or in writing) and after consultation with Customer, to modify, replace, suspend and/or block the Services or part thereof, including but not limited to planned (maintenance) 'down-time' of the Services. However, without prejudice to actual availability, Customer's obligation to pay the Fee(s) shall remain in full force.
- 3.3 If Customer should wish to have certain Services maintained and/or supported by Gen25, Parties shall further arrange, specify and lay down the (manner of) delivery of said Services and related matters in an Agreement. Services which are subject to the conditions of said Agreement will be specified in the Agreement, whereby it shall likewise be laid down for those Services have been agreed upon. Gen25 shall carry out the Services with due care based on material and/or information as expressed in the Agreement and in Article 5.1 of these Terms. In the case that Customer has not entered into an Agreement with Gen25 concerning maintenance Services for such Services, Gen25 cannot be obliged by Customer to conclude such a maintenance agreement at a later point in time.

4. Fee and Payment

- 4.1 Customer has the obligation to pay fees to Gen25 for the Services rendered, and/or related rights of use, such in conformity with the provisions of the Agreement and of this Terms. Fees, prices and rates are expressed in Euro (EUR) and are exclusive of VAT and other government levies and taxes that are or may be due, unless otherwise stated by Gen25 in writing.
- 4.2 Gen25 is authorized to adjust the applicable fee(s), prices and rates at all times, as mentioned in any Agreement, in accordance with the applicable index figure for CAO wages (per hour including special remunerations) Producer Price Index for enterprises, as published by the Central Bureau for Statistics (www.statline.cbs.nl).
- 4.3 All invoices of Gen25 will be paid integrally and not later than thirty (30) calendar days after the date of the invoice. Payment shall take place without any set-off, deduction or suspension. Any objections to any invoice or Fee invoiced shall be made known to Gen25 in a timely manner in writing, which is before the due date of the related invoice.
- 4.4 If Customer does not pay the amounts due within the period of thirty (30) calendar days after the date of the invoice, then Customer shall be in default. In the event of a default (i) Gen25 (in addition to its other rights to which it is entitled under the Agreement) will be authorized to suspend the relevant Services or part thereof after prior notification by Gen25, and (ii) Customer shall be due and pay to Gen25 the amount due accumulated with interest of at least one and a half (1.5) percent per month or the statutory trade interest rate, as well as debt collection costs.

5. Obligations Customer

- 5.1 Customer is obliged to timely provide all access, facilities, equipment, software and licences thereto, and information (including technical and functional documentation and other information) which Gen25 will reasonably need for the proper execution of any Agreement (and/or that may be useful in any other way), without charging Gen25 in this respect. Customer shall also give Gen25 all necessary and adequate cooperation required for the proper execution of any Agreement and shall give Gen25 instructions (on security and other relevant subjects) likewise without any charge to Gen25.
- 5.2 If Customer does not (adequately) or timely comply with the provisions of Article 5.1 then Gen25 shall in any case have the right to suspend execution of the Agreement concerned and Gen25 shall have the right to charge for the costs thereby incurred according to the current prices and fees valid at that time. Customer holds Gen25 indemnified against claims by third parties suffering damage in connection with the execution of any Agreement that is the consequence of acts or omissions of Customer.
- 5.3 Customer shall be exclusively responsible for the selection, use, security, back-up action and application of Services delivered by Gen25 within Customer's organization or outside, unless previously and unambiguously otherwise agreed between Parties in writing. Customer has the obligation to only use the Services within the boundaries of the Terms of the Agreement, these Terms and the applicable laws. Customer shall procure to advise Gen25 immediately of any material or other relevant changes in such Information.

6. Obligations Gen25

- 6.1 Gen25 shall make available qualified persons for the delivery of Services and shall make every effort to carry out delivery to the best of their knowledge and ability.
- 6.2 Gen25 shall deliver Services during Business Days, unless otherwise agreed between Parties in writing. All schedules and terms mentioned by Gen25 and/or agreed with Gen25 have been described and planned to the best of their knowledge on the basis of the information and circumstances known to Gen25 when the Agreement was concluded. Gen25 shall make every effort to adhere to said schedules and terms; the occasional exceeding of such term or schedule shall not be considered an attributable shortcoming of Gen25. In the case that there is a risk of exceeding such term or it has already been exceeded, Parties shall consult as soon as possible.

- 6.3 Gen25 shall not be liable for entire or partial failure to comply with any obligation of and/or on behalf of Gen25 arising from an Agreement, if such failure to comply cannot be imputed to (nor is a consequence of) their fault, nor is accountable to them pursuant to law, juristic act and/or generally accepted practice (anticipated or not) and which therefore cannot be imputed to Gen25. Such a situation may be understood to include a non-attributable shortcoming of a Supplier.
- 6.4 In such situations Gen25 shall have the right to suspend the present and related obligations without the intervention of the court and/or - if such a situation has gone on for longer than two (2) calendar months - to terminate the Agreement concerned wholly or in part, in writing, without Gen25 being held to any compensation and/or guarantee. In the case of whole or partial termination, that which has already been performed pursuant to the Agreement shall be settled in proportion, without any further mutual debt between Parties.
- 6.5 Services provided by a Supplier the terms and conditions of the said Supplier shall apply to the related Services of the Supplier(s), replacing the provisions herein that deviate from those Supplier terms and conditions. Customer shall accept the said terms and conditions of such Suppliers, which shall be open to inspection by Customer at the offices of Gen25, except where these were already provided together with the Services. If and insofar as the said terms and conditions of this Supplier are deemed not to apply to the relationship between Customer and Gen25 or are declared inapplicable, for any reason whatsoever, the provisions of these Terms shall apply, with the exception of the previous two sentences.
- 6.6 In engaging and instructing third parties, Gen25 will in any event reasonably exercise the necessary due care. Gen25 is not liable for damage which is the consequence of failures of such third parties. The Customer hereby authorises Gen25 to accept any limitations of liability of third parties on the behalf of Customer.
- 6.7 Except for the provisions of these Terms and the Agreement, all other explicit and/or tacit stipulations, guarantees, conditions and obligations, whether ensuing from the law or not, in respect of fulfilment by Gen25 of their obligations arising from any Agreement, shall be excluded, to the extent permitted by law.

7. Intellectual Property Rights

- 7.1 All rights of intellectual property of Customer to data and information of Customer are and will remain the property of Customer. All rights of intellectual property of Gen25 and its Suppliers of all rights and title of all segments of the Services, including the technical information, codes, documentation, functionality thereof, data and information of Gen25 are and will remain the property of Gen25. Gen25 shall grant Customer the non-exclusive, non-transferable and royalty-free right to use the Services for an indefinite duration, solely for the purpose of normal business operations of Customer, whereby Customer is entitled to sublicense the Services to its end-customers (hereinafter collectively: '*Right of Use*'). Customer shall acquire no rights whatsoever other than explicitly described in these Terms and/or the Agreement, or unambiguous confirmed in writing by Gen25.
- 7.2 The said Right of Use shall solely amount to the right to load and operate the Services for the specified number or type of users for which the Right of Use was granted. The source code of any Services and the corresponding technical documentation shall not be made available to Customer; Customer shall in no way be entitled to any right of use thereof. Gen25 shall be entitled to take technical measures (such as modules- and/or license keys) to protect the Services and related rights c.a.
- 7.3 As for Services which Gen25 generated and/or developed itself and which therefore are not developed and/or do not belong to the Supplier, Gen25 shall indemnify Customer – within the scope of Article 7 – against claims made by third parties relating to Services exclusively in connection with an (alleged) infringement of an intellectual property right valid in The Netherlands. At the request of Gen25 Customer shall in such cases (i) notify Gen25 in writing of the existence and substance of the claim forthwith, (ii) render the necessary and adequate assistance to Gen25, (iii) leave the handling of the case entirely to Gen25, and (iv) grant Gen25 the powers of attorney necessary to defend itself against such claims, if necessary in Customer's name.
- 7.4 The indemnity referred to in Article 7.3 shall cease to exist (i) if and insofar the infringement concerned is connected with any change to the Services made by others than Gen25 and/or (ii) if the infringement concerned is not attributable to Gen25.
- 7.5 In the case of the aforementioned claims by third parties, Gen25 shall have the right to replace or change Services or any part thereof, or to terminate the Agreement concerned wholly or in part, such at Gen25's discretion.

8. Limitation of Liability

- 8.1 Gen25's total liability arising from the Agreements, Terms, Proposals and/or the performance thereof is described exhaustively in the provisions of Article 8 and its paragraphs; beyond the cases mentioned in this Article 8 and the paragraphs thereof, Gen25 shall be subject to no further liability for compensation, irrespective of the nature of the claim(s) concerned.
- 8.2 Any right of Customer to compensation shall only arise if Customer reports such damage to Gen25 in detail in writing, as early as possible after it occurs (but in any case within ten (10) Working days after Customer has become aware of such damage, or should have been so aware). Customer shall have no right to compensation if the Services to which the damage relates have been wholly or partly processed or treated and/or otherwise altered by and/or on behalf of Customer.

- 8.3 If and to the extent that any damage that Customer suffers by any acting and/or refraining from acting of Gen25 due to intent or gross negligence of the management of Gen25, except for any direct damage on account of an attributable shortcoming of Gen25, Gen25 shall be liable for a maximum sum of EUR 10.000 (in writing: ten thousand Euro) per event, whereby a series of connected events shall count as a single event, such with the exception of intention or gross negligence on the part of the management of Gen25.
- 8.4 Except in cases of intention or gross negligence on the part of the management of Gen25, Gen25 shall not be liable for (i) indirect damage (including but not limited to consequential loss, loss of profit, missed savings, damage to data files and damage due to business interruption) as well as (ii) any other damage exceeding the total sum (excluding VAT) invoiced by Gen25 to Customer and paid by Customer to Gen25.
- 8.5 Without prejudice to the above provisions in Article 8 and its paragraphs (but except in cases of intention of gross negligence on the part of the management of Gen25), Gen25 shall only be liable for damage covered by insurance taken out by Gen25. A copy of which insurance and the appropriate policy shall be handed over to Customer for inspection upon first written request by Customer.

9. Confidentiality & Non-acquisition of staff c.a.

- 9.1 Each Party shall treat all information of a confidential nature received from the other Party, including information relating to commercial, strategic, financial, technical and/or other information and/or knowledge relating to the other Party with the strictest confidence and shall make no statements concerning this to third parties. Such information shall in any case be considered as confidential if this is so indicated by one of the Parties. Parties shall reciprocally be held to take adequate measures and precautions to maintain the secrecy of such confidential information.
- 9.2 Deviation from the provisions of Article 9.1 may only take place if (i) said information was already generally known in public prior to entering into this Agreement, (ii) said information is disclosed with prior written permission from the other Party and/or (iii) said information must be disclosed to meet a decision to that effect by a judicial authority, in which case the Party who is forced to disclose shall so notify the other Party in advance and shall take such steps as the other Party may reasonably desire to limit such publication as far as possible and to protect the confidentiality of said information to the greatest possible extent.
- 9.3 To the extent that personal data of Customer, Gen25 and/or third parties are involved, such information shall be processed in a proper, careful and safe manner within the limits of the statutory regulations and the rightful objectives of Gen25 and Customer respectively. Beyond the normal business activities of the one Party, that one Party shall otherwise not process any personal data of any nature and/or provide these to third parties other than with the prior and unambiguous permission of the other Party and/or to the extent that the law provides otherwise. Each Party shall arrange for its own appropriate technical and organizational measures to protect personal data from loss or from any form of unlawful processing.
- 9.4 Each Party engages in respect of the other Party, during the term of any Agreement and for one (1) year after termination (irrespective of the reason for termination and/or who initiated such termination) and/or expiry thereof, not to employ, either directly or indirectly (either for himself or for the benefit of others) staff or other co-workers of the other Party who have been involved in execution of said Agreement, Party, nor to have aforementioned staff or co-workers work for them in any other manner, such with the exception of prior, explicit written permission from and agreement with that other Party. In the case of infringement of the provisions of Article 9.4 the infringing Party shall owe other Party, among other things, an immediately due and payable fine equal to one (1) gross annual salary per staff member or co-worker concerned, without prejudice to the right of said other Party to recover the entire damage from the infringing Party.

10. Termination

- 10.1 Each Party will be entitled to terminate the Agreement with immediate effect, without any further notice of default and without any prior judicial intervention, by registered letter, if the other Party (i) applies for suspension of payments or is declared bankrupt, or (ii) the other Party is a legal entity and this legal entity is dissolved
- 10.2 The Agreement can be terminated in writing by Gen25 entirely or partially, without any further declaration of default to Customer and without any judicial intervention, if Customer fails in (timely) observing any obligation on account of the Agreement (including but not limited to payment of amounts due by the Customer) and after fourteen (14) days have passed after the date of a written notice of default to Customer, all this without prejudice to the other rights Gen25 is entitled to.
- 10.3 If at the time of termination Customer has already taken delivery of any Services of Gen25, these and the related obligation to pay shall not be subject to undoing. Any pending invoice prior to termination in connection with the already delivered Services, will remain due and shall be payable forthwith at the time of termination, without prejudice to any other rights accruing to Gen25.

11. Law & Forum

- 11.1 The laws of the Netherlands shall exclusively apply to these Terms, Proposals and Agreements and/or the performance thereof. The application of the United Nations Convention on Contracts for the International Sale of Services dated 11 April 1980 is hereby explicitly excluded.

11.2 All disputes arising from the Terms, Proposals and Agreements and/or the performance thereof and/or related thereto shall exclusively be laid before the competent court in Amsterdam, unless (i) Gen25 as plaintiff or petitioning Party elects for the competent court of the domicile or place of business of Customer or unless (ii) Parties specifically agree in writing on a binding ruling or arbitration in the relevant case.

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