

General Terms and Conditions of Delivery – PI Development

Article 1. Definitions

1. In these terms and conditions, the following terms have the following meanings:
 - PI: PI Development B.V., having its registered office in Loenen, registered in the Commercial Register under number 08155285, user of these general terms and conditions.
 - Client: the other party that uses PI's services and/or the natural person or legal entity that enters into a Contract with PI;
 - Parties: Client and PI.
 - Contract: the contract for services between the Parties for the performance of Work and/or services.
 - Work: all work, services and/or activities to be performed by PI for the Client in which respect instructions were issued to and accepted by PI, as well as all work, services and/or activities ensuing therefrom for PI.

Article 2. Applicability

1. These general terms and conditions apply to all offers and quotations made by PI, all other legal relationships between the Parties and all Contracts entered into between the Parties. These general terms and conditions also apply to any additional or follow-up assignments or Contracts between the Parties.
2. Deviations from these general terms and conditions are valid only if these have been expressly agreed in writing.
3. The applicability of the Client's general terms and conditions is expressly rejected.
4. If any provision in these general terms and conditions or in the underlying Contract is null and/or void and/or unenforceable, in full or in part, as a result of any statutory regulation, judicial decision or otherwise, this will not affect the validity of any of the other provisions in these general terms and conditions or the underlying Contract.
5. If these general terms and conditions and the Contract contain contradictory provisions, the provisions in the general terms and conditions prevail, unless the Contract expressly deviates from the general terms and conditions.
6. PI will only accept and perform Contracts and/or Work if the applicability of Articles 7:404 and 4:409 Dutch Civil Code (DCC) is disregarded.

Article 3. Formation of the Contract

1. PI's offers and quotations are based on the information provided by the Client. The Client guarantees that they have provided all essential information required for this purpose to the best of their knowledge.
2. PI's offers and quotations include a description of the Work and/or services offered that is as complete and detailed as possible. Obvious errors or mistakes in an offer or quotation, where it is immediately clear to the Client that these could be errors or mistakes, are not binding on PI. Colours, specifications, functional specifications, drawings and photos and in general any statement regarding the properties, dimensions and weights of products are stated as accurately as possible, but are not binding.
3. PI has the right to suspend the performance of the Contract for services until the Client has complied with the obligations stated in the previous paragraph.
4. PI's offers and quotations are valid for one month, unless stated otherwise.
5. The Contract is concluded as soon as it is laid down in writing and signed by the Parties, or when PI has confirmed to the Client in writing that it has accepted the assignment, as evidenced by documents, correspondence or e-mails exchanged for that purpose, such as at PI's sole discretion.
6. In the absence of the written record as stipulated in paragraph 4, a contract is also concluded if PI has commenced Work, and the Client is aware of this and did not object immediately. In that case, PI's offer or quotation is decisive for the substance of the Contract.
7. The Contract is entered into for an indefinite period of time, unless it follows from the substance, nature or purport of the assignment granted that it has been entered into for a fixed period of time or the Parties have expressly agreed otherwise.

Clause 4 Performance of the Assignment

1. PI will perform the Contract to the best of its knowledge and ability, and in accordance with high standards. This obligation is a best-efforts obligation only.
2. If and in so far as the performance of the Contract requires such, PI has the right to have specific Work performed by third parties. PI does not bear any responsibility for the manner in which the third parties it engages perform their work and is not liable for the any shortcomings on the part of these third parties, except in the case of intent or gross negligence on the part of PI. If these third parties want to limit the liability in connection with the performance of the assignment for PI's Client, PI is authorised to accept such a stipulation without first consulting with the Client.
3. If the agreed assignment entails the completion of a certain end result within a certain period of time, PI will endeavour to perform the Work within the agreed schedule, or within a reasonable period of time if there no schedule has been agreed. PI will report deviations from the schedule to the Client in a reasonably timely manner. Deadlines by which the Work must be completed will only be regarded as a strict deadline if this has been explicitly agreed in so many words between the Client and PI in writing.
4. If, during the term of the Contract, Work or services are performed for the Client that do not fall within the scope of the Work as laid down in a Contract signed by the Parties, the related notes in the administration and files of PI will lead to the presumption that this Work was performed for the Client on an occasional basis. These records must relate to the interim consultations between the Client and PI.
5. The Client is responsible for ensuring that all information which PI states is necessary or which the Client should reasonably understand is necessary for the performance of the assignment, is provided to PI in a timely manner.

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6. If the Client fails to comply with the provisions of paragraph 5, or not in a timely manner, PI has the right to suspend the performance of the Contract and to charge the Client any additional costs that may ensue from the delay.
7. PI is not liable for any loss of any whatever nature arising from incorrect and/or incomplete information provided by Client. The Client guarantees the correctness, completeness and reliability of the data, information and documents made available to PI, even if these come from third parties, in so far as the nature of the Contract does not dictate otherwise. The Client indemnifies PI for loss as a result of incorrect or incomplete documents, information and/or data provided.
8. The loss suffered by PI as a result of the delay in the performance of the Contract, the additional costs incurred by it and the additional fees resulting from the failure to provide the required data and documents or failing to do so in good time or properly, will be borne by the Client.
9. The Client is obliged to inform PI immediately as soon as the Client's bankruptcy has been petitioned for, the Client has filed a request for the application of the Debt Restructuring (Natural Persons) Act (*Wet schuldsanering natuurlijke personen*) or has applied for a suspension of payments, or otherwise reasonably expects that current or future payment obligations will not be paid to PI, or at least not in a timely manner and in full.

Article 5 Termination of the Contract

1. If the Contract is entered into for a fixed period of time, the Contract will end by operation of law on the end date.
2. The Parties are entitled to terminate a Contract for an indefinite period of time in writing with due observance of a notice period of one (1) calendar month.
3. Each party is entitled to terminate the Contract out of court with immediate effect, in whole or in part, by means of a registered letter if:
 - a. the other party applies for or is granted suspension of payments, temporary or otherwise;
 - b. the other party files for bankruptcy or is declared bankrupt;
 - c. the other party discontinues its business;
 - d. attachment is levied on a significant part of the other party's assets through no fault of this party, or if the other party is otherwise deemed no longer capable of performing the obligations under the Contract.
4. The termination of the contract, for whatever reason, does not release the Parties from their current obligations pursuant to the Contract.
5. If the Contract ends before the Work has been completed, the Client will owe a fee in accordance with the hours spent on the Work performed for the Client as specified by PI.
6. If the Client terminates the Contract, or terminates the Contract early, PI is entitled to compensation of loss resulting from lower capacity utilisation incurred by PI and that can be made plausible (taking into account the assignment granted, agreed term, planning and the employees to be deployed for the assignment) and to compensation for additional costs already incurred by PI, and to compensation for costs arising from any cancellation of third parties engaged (including any costs related to subcontracting).
7. Provisions which are intended, by their nature, to remain in force after the termination of the Contract will remain in force.
8. This article does not affect the right to termination pursuant to the law.

Article 6. Defects and time limits for lodging a complaint

1. The Client must submit complaints and objections regarding the Work performed or regarding invoices sent by PI as soon as possible after discovering such, but no later than within fourteen days after the completion of the Work in question or after the invoice date, in writing and with reasons, to PI, subject to payment of the uncontested part of the invoice. After the expiry of 14 days, PI's claim will be deemed uncontested.
2. In the event of a valid complaint, PI will have the choice between adjusting the fee charged, improving or redoing the rejected Work free of charge, or not or no longer performing the Contract, in full or in part, in exchange for restitution of an amount equal to the fee already paid by the Client.
3. If it is no longer possible to still perform the Work agreed, PI will only be liable within the boundaries of Article 11.
4. The reporting of a complaint by the Client will never release the Client from their payment obligation. Even if the Client submits a complaint in a timely manner, their payment obligation will continue to exist.
5. In so far as not stated otherwise in these general terms and conditions, rights of action and other powers of the Client, by any virtue whatsoever, in respect of PI in connection with the performance of Work by PI will lapse in any event after one year from the time the Client became aware or could reasonably have become aware of the existence of these rights and powers.

Article 7. Confidentiality

1. Both Parties are obliged to observe confidentiality in respect of all information received from the other party before and after the conclusion of the Contract that can reasonably be assumed to be of a confidential nature. In any event, information will be considered confidential if it is designated as such by either party.

Article 8. Taking over Employees

1. Unless PI's written permission has been obtained, the Client is prohibited from having PI's employees perform Work and or services for the Client itself or through the Client for a third party, without PI's knowledge, whether directly or indirectly, for payment or not, on the basis of an employment contract or otherwise, during the Contract as well as for a period of 18 months after the termination of the Contract.

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2. The term “Employees” as referred to in paragraph 1 must be understood to include: employees employed by PI and/or employees seconded from third parties by PI and/or self-employed persons who have entered into a contract with PI, if and in so far as they have been or are involved in the performance of any contract between PI and the Client.
3. If the Client acts in violation of the provisions of paragraph 1, the Client incurs an immediately due and payable penalty of EUR 100,000.00 to PI for each violation. This penalty is not intended to exclude PI’s right to claim damages and/or performance instead of a penalty.

Article 9. Prices and rates

1. The prices and/or rates agreed between the Parties apply. If no prices and/or rates have been agreed, the prices and/or rates included in PI’s quotation will apply. If no quotation has been issued, the prices and/or rates usually applied by PI will apply.
2. PI has the right to adjust its prices and rates annually in accordance with the consumer price index published by Statistics Netherlands (CBS). This indexation takes place on 1 January of each year. If the index number is not published on 1 January, indexation may take place with retroactive effect as from 1 January.
3. The prices and rates applied by PI are exclusive of VAT, unless stated otherwise.
4. Unless agreed otherwise, all costs incurred by PI for the performance of the assignment, including travel expenses, will be borne by the Client.

Article 10 Invoices and payment

1. PI is entitled to invoice periodically on an interim basis, for example, every two weeks, every month or every quarter. The Work performed by PI will be charged to the Client on the basis of time spent and costs incurred, unless the parties expressly agree otherwise, for example, the payment of a fixed price. PI’s fee is not dependent on the outcome of the granted Contract, is calculated in accordance with PI’s usual rates or hourly rates and is payable in proportion to the Work performed by PI for the Client. PI will inform the Client of the applicable hourly rates in writing and these rates will form part of the Contract.
2. PI is at all times entitled to decide that the Client must pay PI an advance to be determined by PI before PI commences with the performance of the Contract.
3. Invoices must be paid with thirty days after the invoice date, without any discounts, suspensions, set-offs of debts or settlements, unless expressly agreed otherwise. Objections to the substance or amount of the invoices will not suspend the payment obligation.
4. If the Client does not pay in a timely manner, they will be in default by operation of law without further notice of default being required and PI will be entitled to charge statutory commercial interest and/or extrajudicial costs in accordance with the Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*) or any regulations replacing it.
5. PI is entitled at all times to require the Client to provide sufficient security for the performance of its current and/or future payment obligations. PI is entitled to suspend the performance or further performance of the Contract until the requested security has been provided.
6. PI is authorised, after a careful weighing of interests, to suspend the performance of all its obligations, including the provision of documents, designs, models or other items to the Client or third parties, until such time as all due and payable claims against the Client have been paid in full.
7. If the Client or PI suspend or terminate the assignment, PI will be entitled to full payment of the performed Work and costs incurred up to the time of suspension or termination.
8. If and as soon as the Client is declared bankrupt, applies for a suspension of payments, liquidates its business, its business is otherwise discontinued, attachment has been levied against part of its assets, a composition has been offered to its creditors or otherwise appears to be insolvent, any performance owed by the Client will become immediately due and payable.
9. In the event of an assignment given jointly, the Clients, in so far as the Work was performed for the joint Clients, are jointly and severally liable for the payment of the invoice amount. Article 407(2) DCC does not apply.

Article 11. Liability

1. PI is liable only for loss incurred due to attributable failure in the performance of the Contract, in so far as PI is in default and the shortcomings are the result of a failure to observe due care, expertise and professionalism that may be expected in the context of the Contract.
2. The Client will provide the information required for the performance of the Contract to PI in a timely manner. PI is not liable for loss arising due to incompleteness or incorrectness of the information.
3. PI is not liable for loss arising due to the instructions of the Client or of third parties acting on the instructions of or on behalf of the Client.
4. PI is never liable for indirect loss, which is understood to include consequential loss, lost profit, lost savings and loss as a result of business interruptions.
5. PI’s liability for indirect loss is also limited to the amount paid out by the liability insurer, plus the excess.
6. If and in so far as PI bears any liability, by any virtue whatsoever, and the insurer does not pay, PI’s liability is limited to the amount of the agreed price for the assignment or partial assignment in question, exclusive of turnover tax. If completion in phases has been agreed, each phase will be considered a separate partial assignment. PI’s liability is furthermore capped at an amount of EUR 50,000.00.
7. PI is never liable for costs, losses and interest that may arise directly or indirectly as the result of force majeure.
8. PI is not liable for the damaging or destruction of documents, products or items during transport or dispatch by post, regardless of whether the transport or dispatch is carried out by or on behalf of the Client, PI or third parties.

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9. Any claims for compensation for damage must be submitted to PI as soon as possible, but no later than one month after they arise and within eight days after the discovery of the damage, failing which the Client will irrevocably forfeit its rights in this respect.
10. The Client and PI are not liable to each other for loss that may occur to one or both of them resulting from the use of electronic means of communication, networks, applications, electronic storage, or other systems including – but not limited to – loss resulting from a non-transmission or delay in the transmission of electronic communications, omissions, distortion, interception or manipulation of electronic communications by third parties or by software/hardware used for the transmitting, receiving or processing of electronic communications, transmission of viruses and non-functioning or malfunctioning of the telecommunications network or other means required for electronic communications, except to the extent that this loss is the result of a deliberate act or gross negligence. The above also applies to PI's use of such in its contact with third parties.
11. The provisions in the preceding paragraphs of this article relate to both PI's contractual and non-contractual liability in respect of the Client.
12. The Client indemnifies PI and all third parties engaged by it against all claims from third parties who argue that they have suffered loss as a result of or in connection with the Work performed by PI for the Client. The Client also indemnifies PI against all claims by third parties who suffer loss in connection with the performance of the Contract, which loss is the result of the Client's acts or omissions or of unsafe situations at their company or organisation. If PI is held liable by third parties in that respect, the client is obliged to assist PI both in and out of court and immediately do all that may be expected of the Client in that case. If the Client fails to take adequate measures, PI will be entitled to do so itself without notice of default. All costs and loss on the part of PI and third parties that arise as a result will be fully for the account and risk of the Client.

Article 12. Force majeure

1. In these general terms and conditions, the term "force majeure" – in addition to the meaning attributed to it in the law and case-law – also refers to all external causes, anticipated or unanticipated, that are beyond PI's control but as a result of which it is unable to perform its obligations.
2. In the event of force majeure, PI's obligations are suspended. PI will immediately notify the Client of an event of force majeure, as referred to in this article.
3. If the period in which performance of the obligations is not possible as a result of force majeure lasting longer than two months, both parties are entitled to terminate the Contract without this resulting in an obligation to pay compensation.
4. In the event that upon the occurrence of the situation of force majeure PI has already performed part of its obligations or can perform only part of its obligations, it may invoice the part performed or the part it will be able to perform separately and the other party is obliged to pay such invoice as if it related to a separate contract.
5. If PI is unable to carry out or perform the Contract, or parts thereof, properly due to circumstances beyond its control, such as force majeure, including circumstances or government measures related to the Covid19 virus or other pandemics or epidemics, strikes, technical malfunctions, lock-outs or otherwise, it is never liable to pay any compensation to the Client.

Article 13. Intellectual Property

1. PI reserves all rights with regard to all items or products (of the mind or otherwise) which it uses or has used in the performance of the Contract, as well as all intellectual property rights (such as possible copyrights, patents, etc.) in so far as any rights may exist or may be established in a legal sense on the products, designs, prototypes or items, whether developed or not. Nothing is agreed regarding the transfer of such intellectual property and other rights to the Client, unless this is agreed between the Parties in writing.
2. The Client is expressly prohibited from reproducing or using these items or products, including computer programmes, models, system designs, working methods, advice, contract and model contract and other intellectual products, or making such publicly available, whether in modified form or not and whether with the involvement of third parties or not, except with PI's prior written approval.
3. The Client may not make these items and products available to third parties, other than in the context of obtaining an expert opinion regarding PI's Work.
4. Upon violation of one or more of the provisions of this article, the Client will incur an immediately due and payable penalty to PI of EUR 100,000 for each violation plus an immediately due and payable penalty of EUR 1,000 for each day, including a part of the day, or for each time that the Client is in violation. This does not affect PI's right to claim full damages in addition to the penalty for the loss suffered in this regard.

Article 14. Retention of title and right of retention

1. PI retains the title to the products, services and items developed by it (for example, developed designs and prototypes), until the following amounts have been paid to it in full:
 - the fees owed by the Client for all Work performed by PI and/or items and/or services provided or to be provided by PI; and
 - all claims made by PI against the Client as a result of the Client's failure to perform their obligations.

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2. If the retention of title is invoked, the Client will have no right to compensation of the storage costs, nor will they be able to rely on right of retention in this regard. All costs that may be incurred as a result of this retention of title will be borne by the Client.
3. If the Client is in default in respect of its payment and other obligations as referred to in Article 10, or if PI believes that it has good reason to fear that the Client will not comply with its obligations, PI will be entitled to retrieve the items (such as designs and prototypes) from the place where they are located, or to have them retrieved. The Client hereby irrevocably grants PI permission to enter the premises used by or for the Client for that purpose. . If the Client does not comply with the provisions of this paragraph at PI's first request, the Client will incur an immediately due and payable penalty to PI equal to 10% of the amount that the Client still owes PI.
4. The Client does not have right to pledge the items delivered under retention of title to third parties or to have them serve as security in the broadest sense of the word to third parties and/or to establish any limited right on them.
5. The Client is obliged to keep that the items delivered under retention of title with all due care and ensure they are recognisable as the property of PI and ensure that they are adequately insured against all operating and other risks (including – but not limited to – fire, theft, water damage, explosions, etc.). At PI's first request, the Client will provide copies of the insurance policies that apply in this regard to PI, including proof of timely premium payment.
6. In respect of items delivered that pass into the Client's ownership following payment – or that are processed – and that are still in the Client's hands, the Client hereby establishes a right of pledge for PI's benefit as security for the fulfilment of obligations, other than those mentioned in paragraph 1 of this article (including – but not limited to – future claims), that PI may have or come to have against the Client. At PI's first request, the Client will hand over the items that are subject to this right of pledge over to PI so a possessory pledge can be established on such. Paragraph 3 of this Article applies *mutatis mutandis* in that regard.
7. As soon as the Client is in default, is declared bankrupt or is granted a suspension of payments, all claims of PI become immediately due and payable and the Client will no longer have the right to use, sell or process the goods or items and must keep them immediately and completely at PI's disposal.
8. PI has the right to exercise a right of retention, on the basis of all lapsed claims that accrue to it under the Contract and these general terms and conditions with respect to the Client, on the goods, items or other assets in its possession and to regard such as security for the fulfilment of the Client's obligations.
9. Until the Client has fulfilled all their payment obligations in respect of PI, the Client does not have the right to provide delivered items to third parties as security and/or to establish a non-possessory pledge on such, and/or or to place the items in storage under the actual control of one or more financiers (warrantage), as this will be regarded as an attributable failure to perform on their part. In that case, PI may immediately, without notice of default being required, suspend its obligations under the Contract, or terminate the Contract, without prejudice to the user's right to claim compensation of loss, lost profit and interest.
10. At PI's first request, the Client is also obliged to:
 - Pledge any claims of the Client against insurers in respect of the items referred to in this article to PI; and/or
 - Pledge any claims of the Client against its debtors in respect of the items referred to in this article to PI; and/or
 - Cooperate in other ways with any reasonable measures that PI wants to take to protect its interests and/or ownership rights, provided that the measures to be taken do not disproportionately impede the Client's business operations.

Article 15. Applicable law and other provisions

1. If PI performs Work at the Client, the Client must guarantee a suitable workspace that complies with statutory occupational health and safety standards and other applicable legislation regarding working conditions. In that case, the Client must ensure that PI will in any event receive an office/workspace and/or other facilities that PI believes are necessary or useful for the performance of the Contract and that meet all relevant statutory and other requirements. With regard to the computer and other facilities made available, the Client is obliged to ensure continuity by means of adequate back-ups, security and virus control procedures, among other things.
2. Each party will comply with applicable laws and regulations regarding data protection when processing personal data.
3. Provisions in the Contract that expressly or by their nature remain in force after the end or termination of the Contract, including – but not limited to – Articles 8, 11 and 13, will remain in force after the Contract has ended or was terminated.
4. Additions and amendments to this these general terms and conditions will only be valid if they have been laid down in writing. "In writing" is also understood to mean amendments that were communicated by e-mail. PI may amend these general terms and conditions. These amendments will enter into effect at the announced time of entry into effect. PI will send the amended general terms and conditions to the Client in a timely manner and will also publish them on its website. If no time of entry into effect is announced, an amendment will enter into effect in respect of the Client as soon as this amendment has been announced to them.
5. These general terms and conditions are governed exclusively by Dutch law.

These general terms and conditions can be viewed on www.pidevelopment.nl and will be sent free of charge upon request. The most recent version in force at the time of the conclusion of the Contract will always apply, subject to the provisions of Article 14(4).

Agreed and signed by Client:

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Name:

Date:

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