



# Terms & conditions

TDE BV (Trade name On Your Marks)



General Terms and Conditions of TDE BV ('TDE') a private limited company registered in the trade register under number 65459016, operating under the trade name On Your Marks.

## Article 1 – Scope

1. These general terms and conditions ('general conditions') apply to all offers, contracts and orders placed or entered into with clients by TDE.
2. These general conditions also apply to all subsequent offers and contracts or order confirmations made and/or entered into with the same client, irrespective of whether these are related to or follow on from offers already made or contracts entered into.
3. Any and all amendments or additions to these general conditions must be agreed or confirmed in writing by TDE and shall only apply to the individual case for which the amendment or addition is made or agreed.

## Article 2 – Offers

1. All offers from TDE are without obligation, unless any acceptance period is expressly agreed, or unless the offer does not contain an acceptance period but does indicate that the offer will remain open until it is withdrawn by TDE.
2. The drawings, designs and other information provided by or on behalf of TDE with the offer remain the property of TDE and the client must return these immediately on request if no contract is concluded. The client is not allowed to keep or retain copies in any format. TDE shall at all times have exclusive rights, including all intellectual property rights, with respect to these drawings, designs and other information.



3. These documents, provided by or on behalf of TDE, may not, in whole or in part, be reproduced, published, made available to third parties or used in any other way without the express written permission of TDE.
4. The drawings, models, designs, samples, calculations and suchlike supplied by the client shall be kept by TDE for the client for a period of six months after they have been supplied.
5. The client guarantees the data, specifications, calculations and suchlike that it supplies, and fully indemnifies TDE against errors and/or loss resulting therefrom.
6. The client shall in particular indemnify TDE against all third-party claims against TDE based on infringements of intellectual property rights arising from data, models, illustrations, etc. supplied by the client.

## Article 3 – Prices and price adjustment

1. TDE shall not be obliged to honour a contract at a price quoted which is based on an obvious misprint or printing error or which is clearly not in line with the market.
2. Unless otherwise specified in an offer or contract, all agreed prices are net of VAT, and also exclusive of media costs such as media budget paid links, purchasing modules, subscriptions, software (licences), placement fees and hosting, unless expressly agreed otherwise in writing. Unless expressly agreed otherwise, all prices are stated in euros.
3. Additional work shall be charged separately by TDE. 'Additional work' here means all work not included in the initial, original contract.
4. If TDE, at the request or with the prior consent of the client, has carried out any work or other performance that goes beyond the content or scope of the agreed work and/or performance (additional work), such work or performance shall be paid for by the client in accordance with the agreed rates, and in the



absence thereof in accordance with the usual rates of TDE. TDE shall not be obliged to comply with such a request and may require that a separate written contract be agreed for this purpose.

5. The client acknowledges that changes and additional work (may) lead to the postponement of delivery dates and completion dates (Article 4.5). New delivery dates indicated by TDE shall replace the earlier ones.
6. Insofar as a fixed price has been agreed for the contract, TDE shall, upon request, inform the client in writing of the financial consequences of the extra work or performances as referred to in this article.
7. TDE is expressly authorised to unilaterally change the price and/or content of an offer or concluded contract, without the client being entitled to cancel the contract, but only if and insofar as market conditions (foreseen or unforeseen) or cost price increasing circumstances so justify. TDE shall never be liable to compensate the client in the event of any change.
8. Deviations in the contract up to a maximum of 5% of the price or delivery period, for example, shall be considered reasonable, unless the client proves that it cannot reasonably be required to accept this.
9. If prices have not been fixed before or at the conclusion of the contract, the prices to be charged by TDE and the prices payable by the client shall be the prices in TDE's price lists for that year or the prices applicable on the day of delivery.

## Article 4 – Implementation of the contract

1. All contracts with TDE and the obligations created thereunder assume only a best efforts obligation, unless expressly stated otherwise. TDE shall use its best endeavours to achieve a result desired by a client. TDE shall determine the manner in which the agreed performance is to be carried out.



2. TDE alone shall be deemed the contractual partner of the client, even if it is expressly the inferred intention that the work will be carried out by a specific person (the effect of Book 7 Article 404 of the Dutch Civil Code is expressly excluded). Consequently, these general conditions may also be invoked by those natural or legal persons who are directly or indirectly involved in any way in the performance of the work or services by TDE.
3. The (de facto) directors of TDE, as well as those working for TDE, are not personally bound or liable (the effect of Book 7 Article 407(2) of the Dutch Civil Code is therefore expressly excluded).
4. If TDE deems it necessary in the interest of the client to have certain work carried out by a third party, TDE will discuss this with the client and, after approval, may have certain work carried out by, or with the assistance of, a third party. The client expressly indemnifies TDE against any liability on any basis whatsoever for loss resulting from errors or defective performance by third parties. TDE expressly excludes the effect of Book 6 Article 76 of the Dutch Civil Code.
5. The completion/delivery dates set by the parties in the contract are indicative and shall be pursued by TDE to the best of its knowledge and ability. However, completion/delivery dates are not strict deadlines and the client must first serve TDE with a notice of default if the envisaged dates are not met.
6. If TDE is unable to carry out the agreed performance because the client does not provide the necessary cooperation or because another person on behalf of the client does not cooperate or prevents the achievement of an agreed performance, the client shall be responsible and in default and TDE shall be entitled to compensation for the costs incurred and loss suffered, including termination loss. To avoid discussions about the nature and extent of such loss, TDE hereby stipulates that such loss shall be fixed at a minimum of half of the agreed contract price, without prejudice to the right to full damages.



7. If TDE is unable to carry out the agreed performance within the agreed delivery/completion dates or at the agreed location due to the client being unable or unwilling to provide the necessary cooperation, or if a third party prevents this, this shall be for the account and risk of the client and the client shall be liable for the loss suffered by TDE. In this case too, the loss incurred by TDE shall be fixed at half the agreed contract price, without prejudice to the right to full damages.
8. TDE and its labels work according to the scrum method. Scrum is a flexible method, in which only the budget and the planning of the project are determined in advance. The scrum method involves working in sprints and working towards a potentially marketable partial delivery.
9. The foregoing implies that TDE always strives to deliver a completed part according to an established or pre-agreed scope. Testing and implementing improvements and solving bugs is part of the project and working method. How exactly the project and each development sprint (of 1 or 2 weeks) will be carried out is determined before the sprints begin. This allows TDE to optimally use the project budget to meet the latest requirements. This therefore creates a lot of room for progressive insight.

## Article 5 – Payment

1. The payment term is 14 days after the invoice date, effectively received on the account of TDE, unless otherwise agreed in writing.
2. All payments shall be made without any deduction or set-off in the manner to be determined by TDE. The right of the client to suspend or to set-off is expressly excluded by TDE.
3. TDE shall be entitled to suspend the execution of contracts, until payment of invoices already due has been received in full.



4. TDE reserves the right, even after partial delivery of goods and/or services, to demand financial guarantees and securities from the client for fulfilment of existing and future obligations.
5. TDE reserves the right to apply an inflation correction once a year.
6. TDE is also entitled to invoice after partial delivery.
7. The prices charged and all invoices sent are at all times immediately due and payable, without any summons or notice of default being required, in the event that the client is declared insolvent, applies for or obtains a provisional moratorium, or if a request by the client (a natural person) to be made subject to the legal debt rescheduling scheme is granted by the court, the client loses the power of disposition of his assets or parts thereof due to seizure, placement under receivership or otherwise, or if the client fails to fulfil one or more of its obligations, irrespective of whether these arise from the contract in question, another contract, or under general law.
8. The client shall be in default by operation of law without any summons or notice of default being required, by the mere expiry of the agreed payment term.
9. If the payment term is exceeded, the client shall owe default interest of 1.5% per month from the date of default, whereby part of a month shall count as a whole month. At the end of each year, the amount on which interest is calculated shall be increased by the interest due for that year.
10. If, after a summons or demand, the client fails to pay any part of the outstanding invoices, the penalty for late payment shall be an immediately payable penalty of 15% - calculated over the total outstanding amount - or a fixed penalty of €750.00 if the outstanding amount does not exceed €10,000.00, without prejudice to the right to demand specific performance and compensation pursuant to the law.
11. Insofar as this penalty is not enforceable, the client shall in such case be obliged to reimburse TDE at least the extrajudicial costs in the amount of the



actual costs incurred by the debt-collection agency engaged by TDE in the case of extrajudicial collection.

12. TDE shall also be entitled to charge the client for all costs actually incurred by its legal counsel in the event of legal proceedings, regardless of the flat-rate compensation system provided for by law.

## Article 6 – Privacy, data processing and indemnification

1. If TDE believes this to be relevant to the performance of the agreement, the client shall, upon request, inform TDE in writing of the manner in which the client complies with its obligations under personal data protection legislation.
2. The client shall indemnify TDE against claims by persons whose personal data has been or is being processed for which the client is responsible under the law, unless the client proves that the facts underlying the claim are attributable to TDE.
3. The responsibility for the data processed by the client using a TDE service lies with the client. The client guarantees TDE that the content, the use and/or the processing of the data are not unlawful and do not infringe any third-party rights. The client shall indemnify TDE against any legal claim brought by a third party, for whatever reason, in connection with this data or the execution of the contract.
4. If TDE carries out any work on data relating to the client, its employees or users in response to a request or authorised order from a government authority or in connection with a legal obligation, all associated costs may be charged to the client.
5. TDE's handling of data processing is described in the privacy policy on its own website. This can be found via the hyperlink below and a copy will be sent by TDE to the client free of charge on request.





6. The privacy policy on the TDE website can be found via the following hyperlink: <https://www.onyourmarks.agency/privacy-voorwaarden/> and shall be sent to the client free of charge upon request.

## Article 7 – Security and indemnity

1. If TDE is obliged under the contract to provide a form of information security, such security shall conform to the security specifications agreed between the parties in writing. TDE does not guarantee that information security is effective in all circumstances. If the contract does not contain an expressly described manner of security, the security shall comply with a level that is not unreasonable, given the state of the art, the implementation costs, the nature, scope and context of the information to be secured known to TDE, the purposes and normal use of its products and services, and the probability and severity of foreseeable risks.
2. The access or identification codes, certificates or other security features provided to the client by or on behalf of TDE are confidential and shall be treated as such by the client and shall only be disclosed to authorised personnel from the client's own organisation. TDE is entitled to change assigned access or identification codes and certificates. The client is responsible for the management of authorisations and the provision and timely withdrawal of access and identification codes.
3. If the security or testing relates to software, equipment or infrastructure not supplied to the client by TDE itself, the client warrants that all necessary licences or approvals have been obtained to perform such services. TDE shall not be liable for any loss arising in connection with the performance of these services. The client indemnifies TDE against any legal action, on any grounds whatsoever, in connection with the performance of these services.



4. TDE is entitled to amend the security measures from time to time if necessary due to changed circumstances.
5. The client will secure at all times its systems and infrastructure adequately.
6. TDE may give instructions to the client regarding security for the purpose of preventing or minimising incidents or the consequences of incidents that may affect security. If the client fails to follow such instructions from TDE or a relevant governmental body, or fails to do so in a timely manner, TDE shall not be liable and the client shall indemnify TDE for any resulting loss.
7. TDE shall at all times be permitted to implement technical and organisational measures to protect equipment, data files, websites, software or other works made available to the client to which access is provided (directly or indirectly), also in connection with an agreed restriction on the scope or duration of the right to use these objects. The client shall not have such technical facility(ies) removed or bypassed.

## Article 8 – Duty to provide information and to cooperate

1. The parties recognise that the success of work in the field of information and communication technology depends on proper and timely mutual cooperation. The client shall always provide all reasonable cooperation in a timely manner.
2. The client guarantees the correctness and completeness of the data, information, designs and specifications provided by or on behalf of the client to TDE. If the data, information, designs or specifications provided by the client contain inaccuracies known to TDE, TDE shall consult with the client about this.
3. For reasons of continuity, the client shall appoint a contact person or contact persons who shall act as such for the duration of the work performed by TDE. Client contacts will have the necessary experience, specific subject knowledge and understanding of the client's desired objectives.



4. The client bears the risk of the selection of the goods and/or services to be supplied by TDE. The client shall always take the utmost care to ensure that the performance requirements are correct and complete. Measurements and data contained in drawings, illustrations, catalogues, websites, offers, advertising material, standardisation sheets etc. are not binding on TDE, unless expressly stated otherwise by TDE.
5. If the Client uses personnel and/or agents in the performance of the contract, these personnel and agents shall possess the necessary knowledge and experience. If TDE employees carry out work at the client's location, the client shall provide the necessary facilities in an adequate manner, such as a working space with a controllable climate and the necessary infrastructure such as network facilities to enable the TDE employees to carry out their work. TDE shall not be liable for loss or costs due to transmission errors, malfunctions or unavailability of these facilities, unless the client proves that such loss or costs are the result of intent or gross negligence of (the management of) TDE.
6. The working space and facilities will meet all legal requirements. The client indemnifies TDE against claims by third parties, including TDE employees, who in connection with the performance of the contract suffer loss resulting from acts or omissions of the client or unsafe situations in its organisation. The client shall make the house rules, information and security rules applicable within its organisation known to the employees deployed by TDE before commencement of the work.
7. The client is responsible for the management, including control of the settings, the use of the products and/or services provided by TDE and the way in which the results of the products and services are used. The client is also responsible for the instruction of, and use by, users.



## Article 9 – Hosting

1. The client is solely responsible for exceeding the agreed amount of data traffic (sending data over the internet via the TDE server from and to the client's website).
2. The client is responsible for exceeding the agreed hosting package specifications.
3. If the hosting package specifications are exceeded, the client will be notified in writing. If there is no response, the necessary changes to the package will be made thirty (30) days after the notice.
4. It is prohibited to use the connections, systems and storage space/disk space made available to the client for actions and/or conduct that violates the law, public decency, public order, netiquette, the contract or these general conditions. This includes, but is not limited to, the following acts and behaviour: spamming (deliberately spreading unsolicited e-mail on a large scale), infringing on copyrighted works or otherwise violating the intellectual property rights of third parties, spreading child pornography, sexual intimidation, discrimination, threatening or otherwise harassing persons, penetrating other computers on the Internet without permission (hacking), whereby the client breaks through any security and/or gains access by means of a technical intervention with the aid of false signals and/or false keys or by assuming a false capacity.
5. The client shall be liable for loss suffered by TDE or third parties caused by acting contrary to Article 7.4.

## Article 10 – Project and steering committees

1. When both parties participate in a project or steering committee with one or more employees deployed by them, information shall be supplied in the manner agreed for the project or steering committee.



2. Decisions taken by a project group or steering committee in which both parties participate shall only be binding on TDE if the decision-making process is in accordance with the terms agreed between the parties (preferably in writing) or, in the absence of such written terms, if TDE has accepted the decisions in writing. TDE shall never be obliged to accept or execute a decision that it considers to be incompatible with the content and/or proper performance of the contract.
3. The client guarantees that the persons it appoints to be part of a project or steering committee are entitled to make decisions that are binding for the client.

## Article 11 – Delivery/completion dates

1. TDE shall make reasonable efforts to observe the delivery periods and/or completion dates it has indicated or that have been agreed between the parties, whether or not these are final delivery dates, as far as possible (see also Art. 4.5). Interim delivery dates indicated by TDE or agreed between the parties are always regarded as target dates, are not binding on TDE, and are always indicative.
2. If any deadline is likely to be exceeded, TDE and the client shall enter into consultation to discuss the consequences of the delay for further planning.
3. In all cases - thus also if the parties have agreed on a final delivery date - TDE shall only be in default for exceeding the deadline after the client has given written notice of default, whereby the client grants TDE a further reasonable period to remedy the defect (on the agreed performance) and this reasonable period has expired. The notice of default must contain an as complete and detailed as possible description of the defect, so that TDE has the opportunity to respond adequately.



4. If it has been agreed that the performance of the agreed work shall take place in phases, TDE shall be entitled to postpone the start of the work belonging to a successive phase until the client has approved in writing the results of the preceding phase.
5. TDE shall not be bound by any delivery/completion date or period, if the parties have agreed to a change in the content or scope of the contract (additional work, change in specifications, etc.) or a change in approach to the performance of the contract (Art. 3.6), or if the client fails to comply with its obligations under the contract on time or in full. The fact that (the request for) additional work arises during the performance of the contract shall never be a ground for termination of the contract by the client.

## Article 12 – Liability

1. TDE excludes any liability for loss incurred by the client whilst the client remains in breach of its obligation to make full payment.
2. TDE shall not be liable for any loss suffered by the client, including the obligation to pay compensation for termination or tortious act, unless the client proves that the loss is the result of an intentional or grossly negligent act by TDE or its management and other executives.
3. TDE shall in no event be liable for consequential loss, such as in any case loss based on termination or tortious act, loss of profit, loss of business or business interruption of any kind.
4. TDE shall also not be liable for any damage to, or depreciation of, any property and/or the website and/or its content of the client. This remains at all times the responsibility and liability of the client.
5. If TDE is liable in any such case, the amount to be compensated to the client shall be limited to the cover provided by TDE's insurance company, provided that TDE's insurer pays out in the case in question, plus the excess.



6. If the insurer (or policy) of TDE does not provide cover and/or does not pay out, the total and maximum liability of TDE for damages and costs shall in all cases be limited to the amount of the invoice(s) (not including VAT) related to the order in which the loss occurred, up to a maximum sum of €10,000 per case.
7. In all cases where TDE seeks to rely on the provisions of the foregoing and such reliance is upheld in court, any employees of TDE who are sued may also rely on such provisions as if this article and the provisions herein were stipulated by the employees of TDE themselves.
8. Liability for third parties engaged by TDE as defined in Book 6 Article 76 of the Dutch Civil Code is expressly excluded. If a third party is used, the client must insure itself accordingly.
9. The client shall indemnify TDE against possible claims by third parties that suffer loss in connection with the performance of the contract, regardless of the cause.
10. Claims for damages must be brought by the client to the court having jurisdiction according to these general conditions within one year from the date on which liability was established. After this period, the right to compensation shall expire.
11. TDE shall not be liable for loss resulting from digital provision or availability of data by TDE or client via e-mail or internet. This exclusion of liability expressly, but not exclusively, includes the risk of contamination, impairment, corruption or interception of data by means of viruses, Trojan horses, worms, botnets, hacking, phishing, password cracking, fraud or any other influencing of data by a third party.

## Article 13 – Force majeure

1. Force majeure on the part of TDE exists if TDE is prevented from fulfilling its obligations under the contract or the preparation thereof as a result of war, civil



war, riots, terrorism, acts of war, fire, water damage, epidemics or pandemics, organised or unorganised strikes, strikes, sit-ins, lockouts, seizure, import and export restrictions, government measures, defects in or disruptions to the supply of energy, defects in or deficient infrastructure (hardware and software) at the client's premises and any other causes beyond the control or risk of TDE.

2. In the event of force majeure, the delivery deadlines shall be extended by the period during which TDE is prevented from fulfilling its obligations.
3. If completion or delivery is delayed by more than 1 month due to force majeure, either TDE or the client may rescind the contract - for the unperformed part - in accordance with the point 4.
4. If the force majeure occurs when the contract has already been partially executed, the client shall be entitled to keep the part of the goods already delivered or to rescind the part of the contract already executed as well as to pay the purchase price due in both cases, regardless of whether the client proves that the part of the goods already delivered can no longer be used or exploited effectively as a result of the incomplete performance.
5. Neither party shall be liable to the other for loss in the event of termination of the contract due to force majeure.

## Article 14 – Intellectual property

1. Unless expressly agreed otherwise in writing, all intellectual or industrial property rights to the software, websites, databases, equipment, training, testing and examination materials or other materials such as analyses, designs, documentation, reports, offers, as well as preparatory materials thereof developed under the agreement or made available to the client, are vested exclusively in TDE, its licensors or its suppliers. Insofar as such rights can only be acquired through a deposit or registration, TDE shall be exclusively authorised to take such step. The supply of goods and/or





services to the client does not result in any transfer of intellectual and/or industrial property rights.

2. The client shall only receive the rights of use that are expressly granted in these general conditions, the parties' contract, and mandatory statutory provisions. A right of use granted to the client is non-exclusive, non-transferable, non-pledgeable and non-sublicensable.
3. If TDE is prepared to undertake to transfer an intellectual property right, such undertaking may only be made in writing and expressly and after the client has satisfied its obligations in full.
4. If the parties agree in writing that an intellectual property right in respect of software, website, data files, equipment, know-how or other works or materials specifically developed for the client shall be transferred to the client, this shall not affect the right or the possibility of TDE to use and/or exploit the components, designs, algorithms, documentation, works, protocols, standards and the like underlying such development for other purposes, either for itself or for third parties, without any restriction.
5. TDE also has the right to use the general principles, ideas and programming languages used in the creation, or underlying the development, of any work for other purposes and/or to exploit them for itself or for third parties without any restriction. The transfer of an intellectual property right shall not affect the right of TDE to make developments similar or derived from those made for its own benefit or for the benefit of a third party.
6. The client shall not remove or alter (or cause to be removed or altered) any indication(s) concerning their confidential nature or concerning copyrights, brands, trade names or any other intellectual property right from the equipment, websites, data files, equipment or materials.
7. TDE indemnifies the client against any third-party claim alleging that software, websites, data files, equipment or other materials developed by TDE itself infringe an intellectual property right of that third party, on the



condition that the client informs TDE immediately in writing of the existence and content of the claim and leaves the handling of the case, including the conclusion of any settlements, entirely to TDE. The client shall provide TDE with the necessary authorisations, information and cooperation to defend itself against these claims.

8. This obligation to indemnify shall lapse if the alleged breach is related to (i) works or materials made available to TDE by the client for use, adaptation, processing or maintenance, or (ii) changes made by the client to the software, websites, data files, equipment or other works or materials without the written permission of TDE.
9. If it is irrevocably established in law that the software, websites, data files, equipment or other materials developed by TDE themselves infringe any third-party intellectual property right, or if in TDE's opinion there is a reasonable chance that such infringement will occur, TDE shall, if possible, ensure that the client can continue to use the delivered software, websites, data files, equipment or materials, or functionally equivalent thereof. Any other or further obligation of TDE to indemnify due to infringement of any third-party intellectual property is excluded.
10. The client warrants that no third-party rights oppose the provision to TDE of equipment, software, material intended for websites, data files and/or other materials, designs and/or other works for the purpose of use, maintenance, processing, installation or integration, including the possession of the appropriate licences. The client shall indemnify TDE against any third-party claim alleging that such provision, use, maintenance, editing, installation or integration infringes any right of that third party.
11. TDE shall never be obliged to carry out data conversion, unless this has been expressly agreed with the client in writing.
12. TDE is entitled to use the client's logo or name in its external communication.



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## Article 15 – Termination of contract: notice and termination

1. If a contract with TDE is in the nature of a continuing performance contract for an indefinite term, it can be terminated at any time subject to a notice period of 3 months (to be counted from the last working day of the month) without any obligation to pay compensation.
2. If the client fails to comply with any obligation towards TDE under the contract, a related contract, or a preceding or subsequent contract, or if TDE suspects that the client will fail to comply with any obligation under the contract in the future, the claim shall be immediately due and payable and TDE shall be entitled:
  - a) to demand payment in advance or proper additional compensation for payment or immediate payment on delivery for payment obligations arising from all current and future contracts;
  - b) to suspend deliveries (as well as the manufacture or processing of obligations agreed for the performance), without prejudice to its right to demand security for payment of current or future debts. After the client has fulfilled its payment obligation, TDE shall be allowed the time necessary for production or processing, taking into account the possibilities existing in the company of TDE and/or in the company of TDE's suppliers;
  - c) to terminate the contract in question in its entirety or to the extent that it has not been carried out, without any obligation to pay compensation;
  - d) to terminate more or all current contracts in respect of which the client is not in default.
3. Without prejudice to TDE's right to full compensation, including loss of earnings, TDE shall be entitled to damages in the event of termination of a contract due to the client's breach of its obligations or in the event of cancellation of an order/contract by the client. The amount of compensation



depends on the time that has elapsed between the conclusion of the contract and the moment when the contract is cancelled by TDE or by the client in relation to the agreed time of the service to be provided.

4. The compensation shall be fixed according to the following scale:
  - a) termination/cancellation 8 weeks before commencement of deliveries: 20% of the order/quoted amount;
  - b) termination/cancellation 4 weeks before commencement of deliveries: 40% of the order/quoted amount;
  - c) termination/cancellation 2 weeks before commencement of deliveries: 60% of the order/quoted amount;
  - d) termination/cancellation after the agreed delivery time 100% of the order/quoted amount.
5. The scale (Article 15.4) also applies if TDE agrees to a cancellation or termination at the request of the client.
6. In the event of termination by notice as referred to in this article, TDE shall never be obliged to refund monies already paid and/or received or to pay damages.

## Article 16 – Complaints

1. The client must report complaints of any kind to TDE in writing at all times, giving reasons. A claim, regardless of what it relates to, does not give the client the right to suspend or set off its obligations to TDE under the contract.
2. The client must report immediately visible complaints to TDE after completion or during the execution of the work. If this does not happen, the goods delivered or work carried out shall be considered correct and accepted.
3. The client's right to complain shall in any case lapse if it has taken the products delivered by TDE into use, processed them or otherwise (tacitly) accepted them.



4. In the case of invisible defects, the client must lodge a written complaint within five working days of discovery or after the defect should reasonably have been discovered. If this period expires without complying with the formalities, the delivered or completed work shall be considered correct and accepted.
5. All other complaints must be notified by the client to TDE within the agreed payment period, failing which the right to complain expires.
6. In order to ensure the best possible quality of all parts of the feedback sprint, TDE offers a 3-week warranty on this work. Any defects from the feedback sprint should be reported in the period up to and including 3 weeks after project delivery by TDE. With the exception of defects in functionality developed by third parties, defects reported within that period shall be remedied by TDE free of charge.

## Article 17 – Retention of title

1. All goods delivered by TDE to the client shall remain the property of TDE until the client has paid all claims of TDE against the client on any grounds whatsoever, plus interest and costs and all other claims.
2. If the client forms a new object from goods delivered by TDE that are subject to retention of title, the client shall act on behalf of TDE in such work and shall hold the object on behalf of TDE. The client only becomes owner when the retention of title lapses due to the payment of all claims. The client undertakes to insure at all times the goods delivered under retention of title against fire, explosion and water damage as well as against theft and to make the insurance policy available for inspection on first demand.
3. Insofar as TDE has other claims against the client and TDE has delivered products and/or services to the client that are not subject to retention of title, the client shall establish a non-possessory pledge on these goods in favor of TDE as security for the fulfillment of its obligations, and TDE shall accept this non-possessory pledge. The client shall sign a deed establishing the pledge at



the first request of TDE. The client shall ensure that it is authorized to pledge the goods and that the goods, apart from the rights of TDE, are not subject to any pledge and/or restricted rights.

4. If the client resells products purchased from TDE, TDE may require the client to create a pledge in favor of TDE on its claim against the buyer arising from such sale.
5. The client may not pledge the goods and/or services obtained from TDE to third parties or in any way transfer, assign or limit the legal and/or actual power of disposal to them to the detriment of TDE. The goods are not transferable.
6. All costs involved in establishing and exercising all necessary acts in connection with the retention of title, as well as any other security, are payable by the client.

## Article 18 – Joint and several liability

1. If any contract with TDE is entered into by, or for the benefit of, the client and any other (legal) persons, all such (legal) persons shall be jointly and severally liable for all obligations arising from the contract and/or further contracts derived thereunder.

## Article 19 – Staff

1. The client may not offer employment to TDE employees or otherwise have them work for it, directly or indirectly, for the duration of the relationship between the client and TDE, as well as for a period of one year after the end thereof, without the prior written consent of TDE.
2. In this context, 'TDE employees' shall mean persons employed by TDE or who were employed by TDE at the time of the execution of the Order.



## Article 20 – Service Level Agreement

1. Any agreements on a service level (Service Level Agreement) must be in writing. The client may inform TDE without delay of all circumstances that influence or may influence the service level and its availability.
2. If terms on a service level have been agreed, the availability of software, systems and related services shall always be measured in such a way that a pre-announced shutdown by TDE due to preventive, corrective or adaptive maintenance or other forms of service, as well as circumstances beyond the control of TDE, are not taken into account. Subject to evidence to the contrary to be provided by the client, the availability measured by TDE shall constitute full proof.

## Article 21 – Applicable law and choice of forum

1. All legal relations between TDE and the client shall be exclusively governed by Dutch law.
2. All disputes without exception that arise at any time between the parties as a result of the relationships governed by these general conditions, shall, insofar as they exceed the jurisdiction of the subdistrict court, be subject to the judgment of the district court in Zeeland-West Brabant, sitting in Breda, with the proviso that TDE is at all times entitled to bring the dispute before the competent court in the jurisdiction where the client is established.

### Contact details

If, after reading our Terms and Conditions, you have any questions, complaints or comments, please do not hesitate to contact us in writing or by e-mail at.



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