

## General Conditions of Capro BV

*These General Conditions are determined by Capro BV (Ltd.) and are filed with the Chamber of Commerce in the Netherlands. These General Conditions are applicable with the explicit exclusion of any general terms and conditions of the Client.*

### 1. General

In these General Conditions the following definitions apply:

**Documents:** all items made available by the Client to the Contractor including documents or data carriers as well as all items made by the Contractor in connection with the performance of the contract including documents or data carriers.

**Quotation:** the Contractor's offer to the Client to carry out activities for a certain fee and in accordance with a research protocol.

**Research Protocol:** the annex to the Quotation describing the activities and work of the assignment.

**Client:** the natural person or legal entity who has given the Contractor an assignment to carry out activities.

**Contractor:** the Contractor will at all times be exclusively Capro BV and therefore, contrary to the provisions in Section 7:404 of the Dutch Civil Code, not including an employee with a view to whose person or personal qualities the assignment contract has been awarded. The Contractor as meant above can likewise be a legal entity or enterprise affiliated to Capro if it has explicitly declared these General Conditions applicable.

**Confidential Information:** all information which the Contractor has received from the Client in connection with the assignment contract and 1) which has been indicated by the Client as confidential, or 2) which the Contractor reasonably can or ought to know that this information is confidential.

**Activities:** all activities for which the assignment contract has been awarded or which are performed by the Contractor for other reasons. The foregoing should be considered in the broadest sense of the word and includes in any event the activities as specified in the Quotation;

### 2. Applicability

1. These General Conditions are applicable to all the agreements entered into by the Contractor in connection with the performance of the Activities. Any changes to these General Conditions must be confirmed explicitly in writing by the Contractor.

2. In the event of any contradictions between various documents the following order will be applicable: 1) Quotation, 2) General Conditions, 3) Research Protocol.

3. If with the approval of the Client the Contractor has commenced carrying out the requested Activities, the contents of the Quotation will be considered as agreed.

### 3. Offers and quotations

1. All offers and Quotations are without any obligation unless explicitly otherwise indicated in writing in the offer.

2. The Quotations issued by the Contractor are valid for 30 days unless otherwise indicated. The Contractor will only be bound to the Quotations if their acceptance is confirmed in writing by the Client within 30 days unless otherwise indicated.

3. If the acceptance differs (with respect to minor items) from the offer included in the Quotation this shall not bind the Contractor. The agreement will then not be formed in accordance with this different acceptance, unless otherwise indicated by the Contractor.

4. Offers and Quotations are not automatically applicable to future assignment contracts.

### 4. Performance of assignment contract

1. In performing the contract the Contractor undertakes not to aim at anything more than a result useful to the Client. The contract is performed in connection with the applicable professional rules and codes of conduct, describing for instance proper scientific practice, whereby results and conclusions should not be affected by any interests and requirements of the Client.

2. The Contractor determines the manner in which the assignment contract awarded will be carried out. If possible the Contractor will take into account any sound instructions given by the Client within due time with regard to the performance of the assignment contract.

3. The Contractor is entitled to have certain Activities performed by a person or third party to be appointed by the Contractor without any notification to the Client, if at the discretion of the Contractor this is desirable with a view to an optimum performance of the assignment for all parties.

4. The Client must ensure that all data which the Contractor indicates are necessary or which the Client reasonably ought to understand are necessary for the performance of the agreement, are provided to the Contractor within due time. If the Contractor has not been provided with the data required for the performance of the agreement within due time, the Contractor will be entitled to suspend the fulfilment of the agreement and/or to charge the Client for the extra costs arising from the delay according to the usually applicable rates.

5. The Contractor is not liable for damages of any nature whatsoever caused by the Contractor taking incorrect and/or incomplete information provided by the Client as a starting point, unless this inaccuracy or incompleteness should have been evident to the Contractor.

6. If it has been agreed that the agreement is to be carried out in phases, the Contractor can suspend the performance of those parts which belong to the next phase until the Client has approved the results of the preceding phase in writing.

7. If in connection with the assignment contract Activities are carried out by the Contractor or by third parties engaged by the Contractor on the Client's site or at a location indicated by the Client, the Client shall provide any facilities required within reason by those employees without any charge.

8. The Client indemnifies the Contractor against any claims by third parties who suffer any damages in connection with the fulfilment of the agreement and which damages are attributable to the Client.

#### **5. Amendments to the agreement**

1. If it appears during the fulfilment of the assignment contract that a proper fulfilment makes it necessary to change or supplement the work to be performed, the parties will adjust the agreement accordingly in a timely fashion and in mutual consultation.

2. If the parties agree to amend or supplement the agreement, this may affect the completion date of its fulfilment. The Contractor will inform the Client of this as soon as possible.

3. If an amendment or supplement to the agreement will have financial and/or qualitative consequences, the Contractor will inform the Client of this in advance.

4. If a fixed fee has been agreed, the Contractor will indicate in this connection to what extent the amendment or supplement to the agreement will result in this fee being exceeded.

5. Contrary to paragraph 3 the Contractor will not be able to charge any additional costs if the amendment or supplement is the result of circumstances that can be attributed to the Contractor.

#### **6. Advice and results**

1. If the Activities of the Contractor (partly) consist of giving advice, the Contractor will advise the Client to the best of his abilities. Any advice by the Contractor shall meet the quality requirements which can generally be imposed on an expert consultancy agency. However, the Contractor does not guarantee that application by the Client of the advice would lead to the required result and is not liable for damages which might arise or partly arise from implementation of any advice provided.

2. The Contractor is not liable for damages suffered by the Client as a result of the use of advice or results by the Client and/or negative publicity, neither for indirect loss, consequential loss or other incidental damages, including - but not limited to - loss of turnover or loss of data.

#### **7. Delivery periods**

1. All delivery periods specified by the Contractor are target dates, determined on the basis of details which were known at the time of entering into the agreement. These target dates will be observed as much as possible. Merely exceeding a period does not by operation of law constitute a default by the Contractor. If any period threatens to be exceeded, the parties will consult each other as soon as possible. The Contractor can never be sued for delays as meant in Clause 4.4 or other causes attributable to the Client.

2. Any results or reports are deemed to have been accepted by the Client if the Contractor has not received a written objection within 30 days after they have been sent.

#### **8. Termination of agreement**

1. If the parties have entered into an agreement for an indefinite period of time without having agreed the possibility of giving notice of termination, the parties will be entitled to terminate the agreement with due observance of a notice period of three months.

2. Either party is entitled to dissolve an agreement if the counterparty fails attributably in fulfilling his obligations arising from the agreement, however not before a written notice of default has been sent in which the other party has been given a reasonable period to remedy the failure.

3. Any dissolution or notice of termination must take place through a registered letter stating the reasons.

4. If at the moment that an agreement has been dissolved as meant in the second paragraph the Client has already received any performances in execution of that agreement, those performances and the associated payment obligations will not form part of the dissolution, unless the Contractor is in default with regard to those performances. Any amounts invoiced by the Contractor before the dissolution in connection with what it had already performed or supplied in execution of that agreement, will remain fully due with due observance of the provisions set out in the remaining sentence and will become immediately due and payable at the moment of the dissolution.

5. The parties can dissolve the agreement immediately by a written statement in the following cases:

- a. the bankruptcy of the counterparty has been applied for or pronounced;
  - b. the counterparty has applied for a moratorium or the counterparty has been granted a moratorium;
  - c. the applicability of Title III of the Dutch Bankruptcy Act (*Faillissementswet*) has been pronounced;
  - d. the counterparty's business is being wound up or has otherwise actually ceased to exist other than for a restructuring or merger of businesses;
  - e. acts or conduct by the counterparty or actual circumstances with regard to the counterparty giving good reasons to fear that the counterparty will not fulfil its obligations;
  - f. the tax authority exercises its rights under the Dutch Collection of State Taxes Act (*Invorderingswet*) with regard to the Client;
  - g. if a natural disaster, statutory obligations or jeopardising the health or wellbeing of animals prevent the performance of the assignment.
- In these cases the claims of the Contractor will become immediately due and payable. A dissolution on the basis of this provision does not entitle the counterparty to any compensation.

### **9. Secrecy and exclusivity**

1. The Contractor is obliged to treat the Confidential Information as confidential and to keep it secret with regard to third parties who are not involved in the performance of the assignment. The Contractor is obliged to use the Confidential Information for no other purpose than for the performance of the assignment. These obligations are effective up to 3 years after the agreement has ended. This secrecy is not applicable insofar as legal or professional rules impose a disclosure duty on the Contractor.
2. If, pursuant to a legal provision or a court order, the Contractor is obliged to provide Confidential Information to any third parties specified by law or by the competent court and in this respect the Contractor cannot invoke a privilege acknowledged or granted by law or by the competent court, the Contractor will not be obliged to pay any compensation or indemnification and the counterparty will not be entitled to dissolve the agreement on the grounds of any damages caused by this.
3. The material provided by the Client in connection with the agreement must be returned immediately after a request to this end from the Client.
4. The Contractor is entitled to use the outcome in figures obtained after any processing for publications or statistical or similar purposes, provided the outcomes cannot be traced to the individual clients.
5. The Contractor reserves the right to disclose the name of clients for the benefit of providing references.

6. The Client is not entitled to use the name and/or logos of Capro in any connection whatsoever, unless written consent has been asked to this end and this has been granted.

### **10. Intellectual property**

1. The Contractor reserves all the rights with regard to intellectual products which he uses or has used in connection with the performance of the agreement with the Client, insofar as rights could in a legal sense be attached to or be vested in these products.
2. Without written consent from the Contractor the Client is explicitly prohibited from reproducing, publishing or exploiting these products, including computer programs, system designs, methods of operation, advice, analyses, documentation, reports and other intellectual products, whether or not with engaged third parties.
3. The Client is not allowed to hand these products over to third parties other than for obtaining an expert opinion on the Activities of the Contractor.

### **11. Liability**

1. The Contractor is responsible for the results of the research as represented in the report. If it appears that it includes inaccuracies and/or mistakes, the Contractor will supplement and/or remedy these as soon as possible without extra costs.
2. If during the fulfilment of the agreement in the unlikely event something might occur which leads to liability of the Contractor, this liability of the Contractor will be limited to the amount that will be paid by the liability insurance in the respective case increased by the amount of the excess that will not be at the expense of the insurer according to the policy conditions. If and insofar as for any reason whatsoever no payment is made under the liability insurance, any liability will be limited to twice the fee of the assignment contract. Any rights of action of the Contractor will lapse 1 year after completion of the advice and/or the report.
3. The Contractor will at all times be entitled, if and insofar as this is possible, to undo or reduce the damages of the Client for instance by the Contractor providing services, unless this cannot be required from the Client under the given circumstances.
4. The Contractor is not liable for damage to or destruction of documents during transport or forwarding via mail regardless as to whether the transport or mail despatch takes place by or on behalf of the Client, the Contractor or third parties.
5. The Contractor is not liable for damages as the result of the use of electronic means of communication including - but not limited to - damages as the result of non-delivery or delay in the delivery of electronic communication, interception or

manipulation of electronic communication by third parties or by software/equipment used for sending, receiving or processing electronic communication, transmission of viruses and the non-operation or incorrect operation of the telecommunications network or other means required for electronic communication, except and insofar as the damages are the result of intent or gross negligence. The data extracts from the computer systems of the Contractor provide conclusive evidence of (the content of) the electronic communication sent by the Contractor until such time as evidence to the contrary is provided.

6. The Client indemnifies the Contractor against all claims by third parties which are directly or indirectly, with or without mediation, associated with the performance of the agreement, unless and insofar as the liability towards the third party is covered by insurance applicable to the Contractor.

## **12. Force majeure**

1. If the Contractor cannot fulfil, not fulfil in a timely manner or not properly fulfil his obligations under the agreement as a result of a cause not attributable to him, including but not limited to delays in the regular operations in his business, these obligations will be suspended until the further moment that the Contractor is able to fulfil them in the agreed manner.

2. In the event that the situation as meant in the first paragraph occurs the Client will be entitled to dissolve the agreement in full or in part.

## **13. Fee**

1. The parties can agree a fixed fee upon the formation of the agreement.

2. If no fixed fee is agreed, the fee will be determined on the basis of the actual hours worked. The fee will be calculated according to the usual hourly rates of the Contractor applicable to the period in which the Activities are carried out, unless a different hourly rate has been agreed.

3. The fee and any cost estimates are excluding travel expenses from and to the agreed work location in the Netherlands, excluding VAT or other levies imposed by the authorities, unless otherwise agreed.

4. If the Contractor has agreed a fixed fee or hourly rate with the Client, the Contractor will nevertheless be entitled to increase this fee or rate unless otherwise agreed. The Contractor can adjust its fee or rates at the following moments:

a. annually as of 1 January of any year.

b. at any other moment if in the opinion of the Contractor circumstances require this, commencing one month after the adjustment has been notified to the Client. If the Client does not agree with an increase announced by the Contractor, within five working days after the adjustment has been

announced to the Client, the Client will be entitled to terminate the agreement as from the date on which the adjustment announced would have become effective.

5. In addition, the Contractor is entitled to increase the fee if it appears during the performance of the Activities that the quantity of work originally agreed or expected had been estimated insufficiently upon formation of the agreement - and this is not attributable to the Contractor - to such an extent that the Contractor cannot reasonably be expected to carry out the agreed Activities for the fee originally agreed. In that case the Contractor shall inform the Client of the intention to increase the fee or rate. In doing so the Contractor will specify the amount and the date on which the increase will become effective.

## **14. Payment**

1. The agreed fee for the performance of the agreement must be paid by the Client in accordance with the schedule included in the Quotation. If no schedule has been determined, the Contractor can demand payment in advance and/or send interim invoices.

2. Payment by the Client of the amount on the invoice should take place within 30 days after the invoice date at the office of the Contractor or by means of payment into a bank account to be appointed by the latter and insofar as the payment relates to Activities, without any right to a discount or set-off.

3. If the Client has not paid the amount within the period stated above, or not within any further agreed period, he will be in default by operation of law and the Contractor will be entitled, without any further warning or notice of default being required, to charge the Client the statutory commercial interest rate increased by 2% from the due date until the date of payment in full, all this notwithstanding any other rights which the Contractor has.

4. All expenses incurred as a result of the judicial or extrajudicial collection of the debt will be at the expense of the Client. The extrajudicial costs are fixed at a minimum of 15% of the amount claimed.

5. In the event of a joint assignment, the Clients will be jointly and severally liable for the payment of the invoice amount, insofar as the Activities have been carried out for the joint Clients.

## **15. Investigation, complaints**

1. The Client must report any complaints about the Activities performed and/or the invoice amount to the Contractor in writing within eight days after discovery, but not later than 14 days after completion of the respective Activities. The notice of default must include a description of the failure with as much detail

as possible in order to enable the Contractor to respond adequately.

2. A complaint as meant in the first paragraph, does not suspend the Client's obligations to pay.

3. If a complaint is justified, the Contractor shall still perform the Activities as agreed, unless in the meantime this has demonstrably become pointless for the Client. The latter must be made known by the Client in writing.

4. If it is no longer possible or sensible still to perform the agreed Activities, the Contractor will only be liable within the limits of Clause 11.

5. If the complaint has not been lodged within due time, all the rights of the Client in connection with the complaint will have lapsed.

#### **16. Transfer of staff**

During the term of the agreement as well as one year after its termination the Client shall not in any way - except after proper business consultations with the Contractor have taken place in this respect and the Contractor agrees to it - employ any employees of the Contractor or of the enterprises which the Contractor appealed to in order to perform this agreement and who are or have been involved in the performance of the agreement or otherwise allow them either directly or indirectly to work for him.

#### **17. Applicable law and forum agreed upon**

1. All agreements between the Client and the Contractor to which these General Conditions apply are governed by Dutch law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods, Vienna 11 April 1980.

2. All disputes in connection with agreements between the Client and the Contractor to which these General Conditions apply and which are not covered by the jurisdiction of the sub-district court, will be settled by the competent court in the district in which the Contractor has its place of business.