

GENERAL TERMS AND CONDITIONS

TOPIARY ART B.V.

Deposited on the 28th of August 2006 with the district court of The Hague under the number 66/2006.

A. GENERAL CONDITIONS

A.1 Definitions

Supplier: Topiary Art B.V. trading as Artopya;

Buyer: each party who entered into an agreement with the Supplier to perform services and / or activities.

Products: all products produced and/or sold by the Supplier.

End-user: the party named or not named in the agreement to which the Buyer delivers the goods, products activities and services.

Agreement: agreement to be concluded between the buyer and the supplier with regards to perform services and/or activities and/or the delivery of goods.

Work-day: Monday to Friday, with the exception of official public holidays in The Netherlands.

A.2 Applicability

A.2.1 Unless explicit stated different, these general terms and conditions are applicable on all quotations, price requests and all offers from the supplier, as well as on all agreements and/or legal relationships between the supplier and the buyer. These conditions will take the place of all oral and/or written communications, proposes, guarantees and promises, and all other earlier general terms and conditions of the supplier and all other earlier purchase conditions of the buyer.

A.2.2 Supplemental and/or different conditions – including purchase terms and conditions - of the buyer shall not constitute part of the agreement between supplier and the buyer and shall therefore not be binding on supplier, unless supplier has expressly accepted these supplemental and/or different terms and conditions in writing.

A.2.3 In the event of a conflict between this general terms and conditions and the general terms and conditions of the buyer, this terms and conditions shall prevail, unless the supplier has confirmed the buyer in writing that different conditions will prevail.

A.2.4 If these general terms and conditions are modified early or otherwise, the modified version is part of the conditions for each agreement, concluded between the supplier and the buyer, from the moment of coming into force of the changes.

A.2.5 These General Terms and Conditions have been drawn up in Dutch. The Dutch text is binding and shall prevail in the event of any discrepancies and/or differences between the English and the Dutch text.

A.3 Obligations buyer towards supplier in relation to end-user

A.3.1 Buyer protects supplier unconditional and complete for any possible claims, damage etc. vis-à-vis a third party, which includes the end-user. In every case the supplier will be indemnified completely by the buyer.

- A.3.2 Buyer obliges themselves towards the supplier that present general conditions entirely, unconditionally and irrevocably apply towards the end-user, under penalty of complete indemnity to supplier.
- A.4 Offer, order and conclusion of the agreement**
- A.4.1 Each offer or quotation on behalf of the supplier is made without obligation and does not bind the supplier except when expressly stated otherwise. Offers are based on the details of the buyer. If these details turn out to be incorrect, the supplier has the right to amend her offer or to cancel it. Buyer carries the unconditional risk for the loss caused by inaccuracies or shortcomings in drawings, calculations, constructions specifications and implementation regulations or other specifications supplied by him which form the basis for the activities.
- A.4.2 The documents, that are part of the offer (such as drawings, technical descriptions, etc.) are as accurate as possible, but are not binding and stay the (intellectual) property of the supplier. It is not allowed without permission of the supplier to use, copy, or put them at someone's disposal or make them public.
- A.4.3 The duration of validity of the offer of the supplier is 30 days starting from the date of the offer, unless stated otherwise in the offer. If the offer is not accepted in written, within this term, the offer expires, except in the case the supplier has extended the validity of the offer in written.
- A.4.4 Supplier is authorized to charge the costs which are involved with the preparation of the offer, provided that he informs the buyer in advance of this.
- A.4.5 Cancellation of an offer done with a time-limit, is possible, also if the offer is not done without obligation.
- A.4.6 The agreement will become effective as soon as the offer of the supplier is accepted in written without deviations by the buyer.
- A.4.7 In the event as described in article A.4.1 and the parties have already an agreement. The parties are obliged to make efforts to complete the agreement exclusively with respect to the in A.4.1. formulated shortcomings on behalf of the buyer. In such an event it is exclusively possible for the supplier to rescind the agreement.
- A.5 Prices and Tariffs**
- A.5.1 Items shall be sold, delivered and furnished, and work and/or services performed, at the prices and tariffs applied by supplier at the time the agreement is formed.
- A.5.2 Unless expressly agreed otherwise in writing with the buyer all prices and tariffs shall not include sales tax, value added tax (VAT) and not include any other possible duties put on by the public authorities, and shall not include administration-, installation-, assembly-, packing-, transport-, shipping-, or travel costs.
- A.5.3 The supplier reserves the right to change the prices and the tariffs. Changed prices and tariffs are binding, except if agreed otherwise, from the moment they are introduced.
- A.5.4 Exclusively in the event of a significant price- and/or tariff increase the supplier will inform the buyer for as far as this is reasonably possible. If the buyer not agrees with the by the supplier announced price and/or tariff increase, the buyer is authorized to rescind the existing agreement by means of a written non-judicial statement to be send to the supplier. If the supplier does not receive this statement within 30 days after the buyer received the announcement concerning the price- and/or tariff increase, at least from the moment on which the buyer could reasonably know about the price and/or tariff increase, the buyer deemed to have agreed with the price- and/or tariff increase, as a result of which an possibly appeal to rescind can not proceed without compensation.

A.6 Payment

- A.6.1 Unless expressly agreed otherwise in written, the buyer must provide payment of the invoices sent by the supplier in full within 14 days from invoice date on a bank- and/or giro account appointed by the supplier,
- A.6.2 Payments made by the Buyer shall be applied first to pay all interest and costs owed and only then to pay the invoices which are due and which have been outstanding the longest, even if the buyer states that the payment pertains to a later invoice.
- A.6.3 The buyer may not set off its payment obligation vis-à-vis the supplier against a claim by the buyer against supplier on whatever account, unless supplier provides express, written permission.
- A.6.4 Supplier shall be entitled at any time to demand a pre-payment, cash payment or security for the buyer's payment.
- A.6.5 The payment period referred to in A.6.1 shall be a strict deadline. If the buyer does not pay on time, it shall therefore be in default without a notice of default, and supplier shall be entitled to charge the statutory or other interest rate.
- A.6.6 If the buyer does not pay or does not pay on time, the Buyer shall owe supplier out-of-court costs in addition to the interest referred to in Article A.6.5, which will be calculated on the basis of "Recommendations II" of the report "Voorwerk II", without prejudice to supplier's right to charge the buyer the costs actually incurred, including any court costs, if these exceed the amount thus calculated.
- A.6.7 If the buyer does not pay or does not pay on time, or does not fulfill or does not properly fulfill any obligation it has, supplier shall be entitled to rescind the agreement without court proceedings and to cease further delivery or performance of work and/or services, without prejudice to supplier's right to demand specific performance by or compensation from the buyer for the damage suffered as a result of rescission of the agreement.

A.7 Delivery and delivery periods, transfer of risk

- A.7.1 All (delivery) periods provided or agreed by the supplier are established for as far as the supplier knows according to the details known by the supplier on the moment he enters into the agreement. Supplier shall do everything reasonably possible to provide delivery on the agreed delivery date or within the agreed delivery period.
- A.7.2 Delivery dates indicated or agreed on are target dates shall never be considered strict deadlines.
- A.7.3 Supplier shall be entitled to suspend performance of its obligations vis-à-vis the buyer, as long as the buyer has not fulfilled all of its payment and other obligations pursuant to any existing legal relationship with buyer. This suspension shall apply until the buyer has completely fulfilled its obligations vis-à-vis supplier.
- A.7.4 Supplier shall not be bound by firm or non-firm delivery or other periods which can no longer be met on account of circumstances beyond its control which have occurred after the Agreement was concluded. Nor shall supplier be bound by firm or non-firm delivery periods if the parties have agreed to modify the substance or scope of the agreement (additional work, change in specifications etc.). If any period threatens to be exceeded, supplier and buyer shall consult with each other as soon as possible.
- A.7.5. Except if and for as far as agreed different in written deliveries will take place on the company of the supplier. The risk to deliver the items will pass to and stays with the buyer from the time the buyer collects the items on the company of the supplier. The transport risk is also completely for the risk of the buyer.

A.8 Force majeure

- A.8.1 "Force majeure " shall refer to any failure to perform the agreement which cannot be attributed to supplier or the buyer, because it is not the fault of supplier or the buyer, nor

is supplier or the buyer accountable for this pursuant to law or generally accepted standards. "Force majeure" shall also refer to force majeure of supplier's suppliers, non-fulfilment of obligations by supplier's suppliers, which have been pre-described by the buyer as well as defects of objects, materials or software of third parties, which the buyer has required the supplier to use, as well as wars, natural disasters etc.

- A.8.2 If there is a temporary situation of force majeure, including the situation in which a good/product ordered by the buyer is temporarily no longer in stock, supplier shall be entitled to extend the intended delivery period by the time during which the temporary force majeure situation will continue.
- A.8.3 In the case of a permanent situation of force majeure, including a situation which supplier or the buyer cannot or cannot reasonably control, and which makes it impossible to deliver or furnish the items or products or to perform the work and/or services, including the situation in which an item purchased is sold out and it cannot or can no longer be manufactured, supplier or the buyer shall be entitled to rescind the agreement without court proceedings. Subject to the provisions in Article 6:78 of the Dutch Civil Code, the buyer may not claim any compensation from supplier in a force majeure situation for the damage suffered by it.

A.9 Complaints; return shipments

- A.9.1 Unless otherwise agreed, the buyer must provide written notice of complaints to supplier about the items or products delivered or furnished or the work and/or services performed within 7 business days after the items or products are delivered or furnished or the work and/or services have started to be performed. The complaints must be described clearly. In the absence of such notice, any claim against supplier shall be extinguished with respect to defects in the items or products delivered or furnished or flaws in the work and/or services performed.
- A.9.2 Unless otherwise agreed, the buyer shall only be entitled to send back items or products to supplier if items or products are delivered or furnished to the buyer which it did not order and/or these are damaged when they are delivered or furnished.
- A.9.3 Unless expressly agreed otherwise, the buyer must return the items or products to be sent back with the original shipment document and/or original address label in solid packaging and must state in writing with the return shipment the reason for returning the items or products. After receiving the items or products sent back, supplier shall, if it deems the return shipment well-founded, deliver or furnish the items or products ordered by the buyer and/or undamaged items or products as soon as possible.

A.10 Retention of title and rights, specification and possessory lien

- A.10.1 Supplier shall retain title to all items delivered by it to the buyer, as long as the buyer has not fulfilled its payment or other obligations vis-à-vis supplier under agreements to deliver or furnish items or products and/or to perform work and/or services, including claims regarding a breach of such agreements.
- A.10.2 Buyer is already obliged to establish on first request of supplier a non-possessory pledge on all items as referred to in A10.1, by signing this conditions and registration of this conditions with the tax authority, for as far as the retention of title of the supplier on these items is appeared to be extinguished, or otherwise provide security in favour of the supplier.
- A.10.3 If the buyer creates a new object wholly or partly from the items delivered by supplier, the buyer shall create that object solely for supplier and the buyer shall hold the newly created item for supplier until the buyer has paid all amounts owed under the Agreement; in that event, supplier shall possess all rights as the owner of the newly created object until the time the buyer makes full payment.

- A.10.4 As the occasion arises, rights shall always be granted or transferred to the buyer on the condition that the buyer pays the agreed fees fully and in a timely manner.
- A.10.5 The items delivered or furnished by the supplier to the buyer are from the moment of actual delivery completely for the account and the risk of the buyer.

A.11 Intellectual and industrial property rights

- A.11.1 All rights of intellectual and industrial property with regard to this agreement developed or furnished designs, reports, quotations, and items as preparation material of this shall be held exclusively by supplier, a third party from which supplier has acquired a license or supplier's suppliers. Buyer receives exclusively the rights of use, which will be granted with this conditions and the law. A buyer's rightful right to use is non-exclusive and non-transferable to a third party.
- A.11.2 The buyer shall not be allowed to remove or modify any designation concerning the confidential nature or concerning copyrights, trademarks, business names or other intellectual or industrial property rights from the items.
- A.11.3 Supplier shall indemnify the buyer against any third-party cause of action based on the claim that items developed by supplier itself or other materials infringe an intellectual or industrial property right applicable in The Netherlands, on the condition that the buyer immediately inform supplier in writing about the existence and substance of the cause of action and let supplier handle the matter completely, including with respect to agreeing to any settlements. To that end, the buyer shall provide the necessary powers of attorney, information and cooperation to supplier to defend - if necessary, in the buyer's name - against these causes of action. This indemnification obligation shall be extinguished if the alleged infringement relates (i) to materials provided by the buyer to supplier for use, adaptation, processing or incorporation, or (ii) to changes the buyer has made or caused third parties to make. If it has been established in court as an incontrovertible fact that the by supplier itself developed items or other materials infringe any intellectual or industrial property right held by a third party or if, in suppliers judgment, it is likely that such infringement will occur, supplier shall, if possible, ensure that the buyer can continue to have undisturbed use of the delivered objects, or functionally equivalent other materials concerned, for example, by modifying the infringing parts or by acquiring a right of use for the buyer. If, in its exclusive judgment, supplier cannot ensure or cannot ensure except in a manner that is unreasonably burdensome (financially or otherwise) for it that the buyer can continue to have undisturbed use of the delivered objects, supplier shall take back the delivered objects, with crediting of the acquisition costs minus a reasonable user's fee. Supplier shall not make its choice in this regard until after the buyer has been consulted. Any other or more extensive liability or indemnification obligation on supplier part due to the infringement of a third party's intellectual or industrial property rights shall be completely excluded, including liability and indemnification obligations on supplier's part for infringements caused by using the items and/or materials delivered (i) in any form not modified by supplier, (ii) in connection with objects or software not delivered or furnished by supplier or (iii) in another manner besides that for which the items and/or other materials were developed or intended.
- A.11.4 The buyer warrants that there are no third-party rights which are inconsistent with providing supplier of items, material intended for websites (visual material, text, music, domain names, logos, etc), databases, or other materials, including draft material, intended for use, adoption, installation or incorporation (for example, in a website). The buyer shall indemnify supplier against any action based on the claim that such provision, use, adoption, installation or incorporation infringes a third-party right.

A.12 Liability of supplier and indemnification

- A.12.1 The liability of the supplier is limited till gross negligence or intentional acts/omissions on supplier's part.
- A.12.2 The herefore mentioned liability of the supplier shall be limited to compensating direct damage, up to at most the amount of the price (exclusive of VAT) stipulated for that Agreement.
- A.12.3 Supplier's liability for consequential- or ensuing damage shall be excluded. Under this are lost profits, lost savings, damage through business interruptions etc.
- A.12.4 If there is a lack with regards to the delivered or furnished goods, products, or activities and/or services this will never give the buyer the right to suspend or settle his commitments.
- A.12.5 Supplier will not be liable for any damages on which kind and caused by which cause, if this is a consequence of incorrect and/or inexpert use of the by the supplier delivered or furnished goods, products or activities and/or services. With Regards to advises, which the supplier provides without exclusively prior written agreement which relates to the advice, all liability of the supplier will be excluded, except if there is gross negligence or intentional acts/omissions from the supplier.

A.13 Termination of the agreement

- A.13.1 Supplier shall be entitled to rescind the agreement with the buyer- without indemnity towards the buyer- with immediate effect for the future by providing written notice without a further prior notice of default if:
- a) despite a proper notice of default, the buyer breaches any obligation it has;
 - b) a suspension of payments (temporary or otherwise) is granted to the buyer or the buyer is declared bankrupt, the buyer files a request for application of a debt rescheduling arrangement or the buyer is placed under conservatorship or administration;
 - c) an attachment is levied against the buyer on its property
 - d) the buyer ceases its business operations in whole or in part or otherwise winds up its business operations and/or radically changes its business activities without supplier's prior written permission or transfers its business activities to a third party.
- A.13.2. If the agreement is terminated, all payments owed by the buyer to supplier shall become immediately due and payable in full.
- A.13.3 Supplier shall never be obliged to pay the buyer any compensation or payment on account of the aforementioned termination of the agreement, without prejudice to supplier's right to full compensation on account of the buyer's aforementioned breach of its obligations and without prejudice to supplier's other rights in this regard.

A.14 Confidentiality

- A.14.1 The buyer is obliged to keep confidential any data and information which is put on disposal by or on behalf of the supplier. Buyer shall not communicate or supply the data and information without written authorization of the supplier.
- A.14.2. Buyer has the right to, for promotion purposes, communicate towards third parties that an order will be accomplished for buyer or that an order is accomplished for buyer, with taking into account A14.1.

A.15 Applicable law and disputes

- A.15.1 Dutch law shall solely apply to every agreement concluded by supplier with the buyer.
- A.15.2 Insofar as statutory provisions do not dictate otherwise, all disputes ensuing from or related to an agreement concluded by supplier with the buyer shall exclusively be brought before the competent court of supplier's domicile.