

General terms and conditions for services provided by the RETAM service group

Article 1 Definitions

1. These general terms and conditions apply to all offers drawn up by RETAM, RETAM and agreements concluded between the Client. They also apply to all obligations arising from agreements concluded between the parties afterwards. The application of general terms and conditions invoked by the Client is expressly rejected.

2 For the purposes of these terms and conditions, the following definitions apply:

- The Work: the total of the agreed work (including any design) and/or deliveries.
- Client: the other party that instructs RETAM to perform the agreed work.
- User: the person or group who uses or will use The Work.
- RETAM: RETAM service group BV., registered with the Chamber of Commerce Oost Brabant under number 82353859.

Article 2 Applicability

1. These terms and conditions apply to every offer, quotation and agreement between RETAM and a Client where RETAM has declared these terms and conditions applicable, insofar as the parties have not expressly deviated from these terms and conditions in writing.

2. These terms and conditions also apply to all agreements with RETAM, for the execution of which third parties must be involved.

3. Any deviations from these general terms and conditions are only valid if they have been expressly agreed in writing.

4. The applicability of any purchase or other conditions of the Client is expressly rejected.

Article 3 Offers and quotations

1. All offers are without obligation, unless the offer states a period for acceptance or indicates otherwise .

2. The quotations drawn up by RETAM are valid for 30 days, unless otherwise indicated. RETAM is only bound by the quotations if the acceptance thereof by the Client is confirmed in writing within 30 days, unless otherwise indicated.

3. If the Client has accepted an offer made by RETAM, RETAM nevertheless has the right to revoke the offer within 7 working days after receipt of acceptance.

4. The prices in the aforementioned offers and quotations are exclusive of VAT and other government levies, as well as any costs to be incurred in the context of the agreement, including shipping and administration costs, unless otherwise indicated.

5. If the acceptance deviates (on minor points) from the offer included in the offer, RETAM is not bound by it. In that case, the agreement will not be concluded in accordance with this deviating acceptance, unless RETAM indicates otherwise.

6. A composite quotation does not oblige RETAM to perform part of the assignment for a corresponding part of the quoted price.

7. Offers or offers do not automatically apply to future orders.

Article 4 Execution of the agreement

1. RETAM will carry out the agreement to the best of its knowledge and ability and in accordance with the requirements of good workmanship. All this on the basis of the state of science known at that time.
2. If and insofar as this is required for the proper execution of the agreement, RETAM has the right to have certain activities carried out by third parties.
3. The Client shall ensure that all information that the User indicates is necessary or that the Client should reasonably understand is necessary for the performance of the agreement is provided to the User in a timely manner. If the information required for the performance of the agreement is not provided to the User in a timely manner, the User has the right to suspend the performance of the agreement and/or to charge the Client for the additional costs arising from the delay in accordance with the usual rates.
4. RETAM is not liable for damage of any nature whatsoever as a result of which RETAM has relied on incorrect and/or incomplete information provided by the Client or User, unless this inaccuracy or incompleteness should have been known to RETAM.
5. At the request of the Client, RETAM submits the documents showing that he has taken out liability insurance.
6. If it has been agreed that The Work will be carried out in phases, RETAM may suspend the execution of those parts that belong to a subsequent phase until the Client has approved the results of the preceding phase in writing.
7. If work is carried out by RETAM or third parties engaged by RETAM in the context of the assignment at the location of the Client or a location designated by the Client, the Client will provide the facilities reasonably desired by those employees free of charge.
8. The Client is obliged to RETAM to enable the execution of The Work within RETAM's normal working hours and under conditions that meet the statutory safety requirements and other government regulations.
9. The Client shall ensure that RETAM has timely access to the approvals required for The Work (such as permits and exemptions) and the information to be provided by Client for The Work.
10. The Client indemnifies RETAM against any claims from third parties who suffer damage in connection with the performance of the agreement and which are attributable to the Client.
11. The Client is responsible for applying for the connection of any installations to the network of the relevant utility company or to the various public transmission networks. The connection costs are borne by the owner. RETAM provides instructions for this in its field of expertise.
12. In carrying out The Work, RETAM observes the regulations that apply to it. Any financial consequences of changes in the regulations between the date of the offer and the delivery of The Work will be settled as additional work.

Article 6 Modification of the agreement

1. If, during the execution of the agreement, it becomes apparent that it is necessary to change or supplement The Work to be performed in order to carry out The Work properly, the parties will amend the agreement accordingly as soon as possible, but in any case within one month.
2. If the parties agree that the agreement will be amended or supplemented, the time of completion of the performance may be affected as a result. RETAM will inform the Client of this as soon as possible.
3. If the amendment of or addition to the agreement will have financial and/or qualitative consequences, RETAM will inform the Client in advance.
4. If a fixed fee has been agreed, RETAM will indicate the extent to which the amendment or addition to the agreement will result in this fee being exceeded.
5. Contrary to paragraph 3, RETAM will not be able to charge additional costs if the change or addition is the result of circumstances that can be attributed to RETAM.

Article 7 Contract duration; Execution period

1. The agreement between RETAM and a Client is entered into for an indefinite period of time, unless the nature of the agreement dictates otherwise or the parties expressly agree otherwise in writing.
2. If a deadline has been agreed within the term of the contract for the completion of certain work, this is never a strict deadline. If the execution period is exceeded, the Client must therefore give the User written notice of default.
3. The work is considered to have been completed :
 - Either when RETAM has notified the Client that The Work is completed, tested and ready for operation and the Client has approved or accepted The Work;
 - Or if no later than eight days have elapsed after RETAM has declared in writing to the Client that The Work is completed, tested and ready for operation and the latter has failed to approve or accept The Work within that period;
 - Or when the Client (prematurely) commissions The Work, on the understanding that by (premature) commissioning of part of The Work, that part is considered to have been completed.
4. Minor defects that can be repaired within the warranty period and that do not affect the functioning of The Work will not interfere with delivery
5. Delivery releases RETAM from all liability for defects that the Client should reasonably have discovered at that time.
6. As a result of the delivery, the risk for The Work is transferred from RETAM to the Client.

Article 8 Fee

1. Paragraphs 2, 5, 6, 7 and 8 of this Article shall apply to offers and contracts in which a fixed fee is offered or agreed. If no fixed fee is agreed, paragraphs 3 to 8 of this article apply.
2. The parties can agree on a fixed fee when the agreement is concluded.
3. If no fixed fee is agreed, the fee will be determined on the basis of hours actually spent. The fee is calculated according to RETAM's usual hourly rates, applicable for the period in which The Work is performed, unless a different hourly rate has been agreed.
4. The fee and any cost estimates are exclusive of VAT.
5. For assignments with a duration of more than 1 month, the costs due will be charged periodically.
6. If RETAM agrees on a fixed fee or hourly rate with the Client, RETAM is nevertheless entitled to increase this fee or rate. If RETAM can demonstrate that between the moments of offering and delivery, with regards to e.g. wages, the rates or prices have changed considerably, RETAM is entitled to pass on price increases. In addition, RETAM may increase the fee if, during the performance of The Work, it appears that the originally agreed or expected amount of work was insufficiently estimated at the time the agreement was concluded, and this is not attributable to RETAM, that it cannot reasonably be expected of RETAM to provide The Work for the originally agreed fee.
7. In cases other than those referred to in Article 7 under 6. the Client is entitled to terminate the agreement, insofar as RETAM has not yet performed, if the fee or rate is increased within three months after the conclusion of the agreement. After this period has expired, the Client is entitled to dissolve the agreement if the increase is more than 10%. The Client is not entitled to dissolve if the authority to increase the fee or rate arises from a power under the law.
8. RETAM will notify the Client in writing of its intention to increase the fee or rate. RETAM will state the date of and the date on which the increase will take effect.
9. If the Client does not wish to accept the increase in the fee or rate announced by RETAM, the Client is entitled to terminate the agreement in writing within seven working days of the said notification, or to cancel the assignment by the date specified in the notification of the User on which the price or rate of the contract is cancelled tariff adjustment would enter into force.

Article 9 Payment and security

1. Payment must be made within 15 working days of the invoice date, in a manner to be indicated by RETAM in the currency in which the invoice was submitted. Suspension of payment or set-off by the Client, for whatever reason, is expressly excluded.

2. If the Client fails to pay within the period of 15 working days, the Client will be in default by operation of law. In that case, the Client will owe an interest rate of 1.5% per month, unless the statutory interest rate is higher, in which case the statutory interest rate applies. The interest on the amount due and payable will be calculated from the moment that the Client is in default until the moment of payment of the full amount.

3. In the event of liquidation, bankruptcy, attachment or payment of the Client, RETAM's claims against the Client shall be immediately due and payable.

4. RETAM has the right to have the payments made by the Client used in the first place to reduce the costs, then to reduce the outstanding interest and finally to reduce the principal sum and the accrued interest.

RETAM may, without being in default, refuse an offer to pay if the Client designates a different order for the attribution. RETAM may refuse to repay the principal sum in full if the outstanding and accrued interest as well as the costs are not also paid.

5. If there are reasonable grounds for the Client not to fulfil its obligations towards RETAM, the Client is obliged to provide sufficient security immediately and in the form desired by RETAM at the first request of RETAM and, if necessary, to supplement it for the fulfilment of its obligations. If the Client does not comply with such a request, all its obligations will become immediately due and payable.

Article 10 Settlement of more and less work

1. Contract variations shall be taken into account:

- a. in the event of changes to the specifications (changes to the specifications, The Work or the conditions of execution of The Work);
- b. in the event of deviations from the amounts of provisional items and deductible and/or estimated quantities;
- c. in the cases provided for in these terms and conditions.
- d. Each of the totals or the balance of additional payments and deductions as a result of changes to the contract documents may not exceed 15% or 10% respectively of the contract price.

2. The additional work is charged at once when the next payment term appears. If no instalment payment has been agreed until after its completion.

3. The deduction is invoiced at once in the final settlement.

4. If the total of the contract deductions exceeds that of the contract extras, RETAM is entitled to an amount equal to 15% of the difference between those totals.

5. The lack of a written instruction for additional work does not affect RETAM's claims for set-off.

Article 11 Retention of title

1. All goods delivered by RETAM, including any (electronic) documents or files, designs, sketches, drawings, films, software, etc., remain the property of RETAM until the Client has fulfilled all subsequent obligations under all agreements concluded with RETAM.

2. The Client is not authorised to pledge the goods subject to the retention of title or to encumber them in any other way.

3. If third parties seize the goods delivered subject to retention of title or wish to establish rights to them or apply to them, the Client is obliged to inform RETAM of this as soon as can reasonably be expected.

4. The Client undertakes to insure and keep insured the goods delivered subject to retention of title against fire, explosion and water damage as well as against theft and to make the policy of this insurance available for inspection on first request.

5. Goods supplied by RETAM, which are subject to retention of title pursuant to the provisions of paragraph 1. of this article, may only be resold in the context of normal business operations and may never be used as a means of payment.

6. In the event that RETAM wishes to exercise its property rights referred to in this article, the Client shall already give unconditional and irrevocable permission to RETAM or third parties to be designated by it to enter all those places where RETAM's property is located and to take back those goods.

Article 12 Collection expenses

1. If the principal is in default or in default in the (timely) fulfilment of its obligations, all reasonable costs incurred in obtaining payment out of court will be borne by the Client. In any case, the Client owes collection costs in the event of a monetary claim. The collection costs are calculated in accordance with the collection rate as advised by the Dutch Bar Association (*Nederlandse Orde van Advocaten*) in debt collection cases.
2. If RETAM has incurred higher costs, which were reasonably necessary, these are also eligible for reimbursement.
3. Any reasonable judicial and enforcement costs incurred will also be borne by the Client.

Article 13 Research, advertisements

1. Complaints about The Work performed must be reported by the Client to RETAM in writing within 8 days of discovery, but no later than 14 days after completion of The Work in question. The notice of default must contain a description of the shortcoming that is as detailed as possible, so that RETAM is able to respond adequately.
2. If a complaint is well-founded, RETAM will still perform The Work as agreed, unless this has become demonstrably pointless for the Client in the meantime. The latter must be made known in writing by the Client.
3. If the performance of the agreed work is no longer possible or useful, RETAM will only be liable within the limits of Article 15.

Article 14 Opzegging

1. Either party may terminate the agreement in writing at any time.
2. If the agreement is terminated prematurely by the Client, RETAM is entitled to compensation for the resulting and plausible loss of occupation, unless there are facts and circumstances underlying the termination that are attributable to RETAM. Furthermore, the Client is then obliged to pay the invoices for work performed up to that point. The provisional results of The Work carried out up to that point will therefore be made available to the Client subject to reservation.
3. If the agreement is terminated prematurely by RETAM, RETAM will, in consultation with the Client, arrange for the transfer of work to be performed to third parties, unless there are facts and circumstances underlying the termination that are attributable to the Client.
4. If the transfer of The Work entails additional costs for RETAM, these will be charged to the Client.

Article 15 Suspension and termination

1. RETAM is authorized to suspend the fulfilment of the obligations or to dissolve the agreement if:
 - Client does not or does not fully comply with the obligations under the agreement.
 - After the conclusion of the agreement, circumstances that have come to RETAM's knowledge give good reason to fear that the Client will not comply with the obligations. If there is good reason to fear that the Client will only partially or not properly comply, the suspension is only permitted insofar as the shortcoming justifies it.
 - When concluding the agreement, the Client was requested to provide security for the fulfilment of its obligations under the agreement and this security is not provided or is insufficient.
2. For this purpose, RETAM is entitled to dissolve the agreement (or have it dissolved) if circumstances arise that are of such a nature that compliance with the agreement is impossible or can no longer be required according to standards of reasonableness and fairness, or if other circumstances arise that are of such a nature that the unchanged maintenance of the agreement cannot reasonably be expected.
3. If the agreement is dissolved, RETAM's claims against the Client will be immediately due and payable. If RETAM suspends the fulfilment of its obligations, it retains its claims under the law and the agreement.
4. RETAM always reserves the right to claim damages.

Article 16 Return of items made available

1. If RETAM has made goods available to the Client during the execution of the agreement, the Client is obliged to return the delivered goods within 14 days in their original state, free of defects and in full. If the Client fails to comply with this obligation, all costs arising from this will be borne by the Client.
2. If, for whatever reason, the Client remains in default of the obligation referred to under 1., RETAM shall be entitled to recover the resulting damage and costs, including the costs of replacement, from the Client.

Article 17 Liability

1. If RETAM is liable, this liability is limited to what is provided for in this provision.
2. RETAM is only liable for damage that is the direct and exclusive result of intent or gross negligence on the part of the RETAM and his subordinates, and insofar as it has been given written and proper notice of default by the Client, whereby a reasonable period of time for repair or replacement is required.
3. If RETAM is liable for direct damage, then that liability is limited to a maximum of the amount of the payment to be provided by RETAM's insurer, or at least to a maximum of the invoice amount, or at least that part of the invoice to which the liability relates.
4. Contrary to what is stated under 3. of this article, in the case of an assignment with a duration of more than six months, the liability shall be further limited to the part of the fee due for the last six months.
5. Direct damage is understood to mean exclusively:
 - The reasonable costs of determining the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions;
 - Any reasonable costs incurred to ensure that RETAM's defective performance complies with the agreement, unless these cannot be attributed to RETAM;
 - Reasonable costs incurred to prevent or limit damage, insofar as the Client demonstrates that these costs have led to the limitation of direct damage as referred to in these general terms and conditions.
6. RETAM is never liable for indirect damage, including consequential damage, loss of profit, lost savings and damage due to business interruption.
7. RETAM stipulates all legal and contractual means of defence which it may invoke in order to defend itself against the Client, including for the benefit of its subordinates for whose conduct it would be liable under the law.
8. Any claim for compensation for damage expires 3 years after the event that caused the damage, unless the legal recovery of the damage has commenced within the aforementioned period.

Article 18 Indemnities

1. The Client indemnifies RETAM against claims by third parties with regard to intellectual property rights to materials or data provided by the Client that are used in the execution of the agreement.
2. If Client provides RETAM with information carriers, electronic files or software, etc., Client guarantees that this will not infringe the property or copyrights of third parties, as well as that the information carriers, electronic files or software are free of viruses and defects.

Article 19 Transfer of risk

1. The risk of loss or damage to the goods that are the subject of the agreement shall pass to the Client at the time at which they are legally and/or factually delivered to the Client and thus come under the control of the Client or of a third party to be designated by the Client.

Article 20 Force majeure

1. The parties are not obliged to fulfil any obligation if they are prevented from doing so as a result of a circumstance that is not attributable to fault, and is not for their account according to the law, a legal act or generally accepted practice .
2. In these general terms and conditions , force majeure is understood to mean, in addition to what is understood in the law and case law, all external causes, foreseen or unforeseen, over which RETAM has no influence, but as a result of which RETAM is unable to fulfil its obligations. This includes strikes in the RETAM company.
3. RETAM also has the right to invoke o vermacht if the circumstance that prevents (further) performance occurs after RETAM should have fulfilled its obligations.
4. The parties can suspend the obligations under the agreement during the period that the force majeure continues. If this period lasts longer than two months, either party shall be entitled to terminate the contract without any obligation to compensate the other party for damage.

5. Insofar as RETAM has already partially fulfilled its obligations under the agreement at the time of the occurrence of force majeure or will be able to fulfil them, and the part that has been fulfilled or is to be fulfilled has independent value, RETAM is entitled to declare the part already fulfilled or to be fulfilled separately. The Client is obliged to pay this invoice as if it were a separate agreement.

Article 21 Confidentiality

1. Both parties shall be obliged to maintain the confidentiality of all confidential information obtained from each other or from other sources in the course of their agreement. Information is considered confidential if this has been communicated by the other party or if this arises from the nature of the information.

2. If, on the basis of a statutory provision or a court ruling, RETAM is prohibited from providing information to third parties designated by law or the competent court, and RETAM cannot rely on a part or a permitted right of refusal recognized by the competent court, then RETAM is not limited to incineration of compensation and the other party is not entitled to terminate the agreement on the grounds of any damage of unclear origin.

Article 22 Intellectual property and copyright

1. Without prejudice to the other provisions of these general terms and conditions, RETAM reserves the rights and powers that are vested in RETAM on the basis of the Copyright Act.

2. All documents provided by RETAM, such as reports, advice, agreements, designs, sketches, drawings, software, etc. are intended exclusively to be used by the Client and may not be used by him without prior permission from RETAM. They may be reproduced, made public, or brought to the attention of third parties, unless otherwise follows from the content of the documents provided.

3. RETAM reserves the right to use the knowledge gained through the performance of The Work for other purposes, insofar as no confidential information is brought to the knowledge of third parties.

Article 23 Disputes

1. The court in RETAM's place of business has exclusive jurisdiction to hear disputes, unless the subdistrict court has jurisdiction. Nevertheless, RETAM has the right to submit the dispute to the competent court according to the law.

2. The parties will only appeal to the court after they have made every effort to settle a dispute in mutual agreement.

Article 24 Applicable law

1. Dutch law applies to every agreement between RETAM and the Client.

Article 25 Modification and location of the terms and conditions

1. If one or more of the provisions of these general terms and conditions are null and void or should be annulled, the other provisions of these general terms and conditions shall remain fully applicable. RETAM and the Client will then consult with each other in order to agree on new provisions to replace the null and void or nullified provisions, whereby the purpose and purport of the original provision will be taken into account as far as possible.

2. The most recently filed version or the version as it applied at the time of the conclusion of the agreement is always applicable.

3. These general terms and conditions were filed with the Chamber of Commerce for East Brabant on 14 September 2006. You can also request these general terms and conditions via the Chamber of Commerce information number in the Netherlands: 0900-123 45 67.