

GENERAL TERMS AND CONDITIONS – TALENTIN B.V.

TalentIn B.V. is a private limited company with its registered office in Rotterdam. TalentIn B.V. is listed in the commercial register kept by the chamber of commerce under number: 70032637.

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TalentIn B.V. may amend these general terms and conditions from time to time. The latest published version of these terms and conditions apply. Parties may deviate from these Terms and Conditions in writing.

ARTICLE 1 - GENERAL

These terms and conditions apply to every offer, proposal and assignment between TalentIn B.V. and the client. These General Terms and Conditions have been filed with the chamber of commerce in Rotterdam and are available on www.talentin.eu. A copy will be sent to the client on request.

ARTICLE 2 - ESTABLISHMENT OF THE ASSIGNMENT

The assignment shall be deemed to have been established when the client accepted in writing (including an email-message) the proposal of TalentIn B.V. or, when no proposal was made, after the written confirmation of TalentIn B.V. of the request for the service with the client.

ARTICLE 3 – CONTRACTOR

TalentIn B.V. will be the sole contracted party for all work and activities under the agreement between the parties. These General Terms and Conditions will apply to all work to be done and cases to be handled for or on behalf of the client by or on behalf of TalentIn B.V. and all legal relationships that TalentIn B.V. enters into with third parties. The applicability of the general terms and conditions of the client or other general terms and conditions is explicitly excluded. These General Terms and Conditions also apply in relation to third parties that TalentIn B.V. engages in the performance of its services and these third parties will be able to invoke these General Terms and Conditions.

ARTICLE 4 - THIRD PARTIES

1. TalentIn B.V. may involve third parties (either for the whole assignment or partially) to perform the activities under the agreement between the parties. All cases will solely be accepted and carried out by TalentIn B.V., even if the case has been assigned explicitly or implicitly with a view to performance by a certain person. The applicability of Sections 7:404 and 7:407(2) and 7:409 of the Dutch Civil Code (Burgerlijk Wetboek) is explicitly excluded.
2. If third parties are to be engaged in connection with the work conferred on TalentIn B.V., TalentIn B.V. will exercise all due care when selecting these third parties. However, TalentIn B.V. will not be liable for any mistakes or shortcomings on the part of these third parties in the performance of the work in question or otherwise. TalentIn B.V. has the right to accept any limitation of liability that may have been stipulated by a third party, on behalf of the client.
3. The client indemnifies, defends and holds TalentIn B.V. harmless from and against any and all (subsequent) claims made by third parties, including claims for reasonable costs of legal assistance, in any way arising out of or related to the work undertaken for the client, except where such claims arise from gross negligence or intent.

ARTICLE 5 - PROPOSALS AND OFFERS

1. All offers and proposals from TalentIn B.V. are non-binding, unless agreed otherwise in writing. An offer or proposal only applies to the assignment specified therein and not for possible future assignments, unless provided otherwise in the proposal.

2. If the Client provides TalentIn B.V. with certain information, TalentIn B.V. may assume that the provided information is correct and will base the proposal on that information.

ARTICLE 6 - PRICING

1. The costs of performance of the engagement by TalentIn B.V. consist of the professional fees, VAT (where applicable) and disbursements.
2. TalentIn B.V. shall be entitled to compensation as agreed upon in the Services Agreement and, unless explicitly agreed otherwise in writing, this compensation shall not depend on the outcome of the Services.
3. Any estimate of the fees involved in the Services will be based upon TalentIn's assessment of the work involved, taking account of any assumptions set out in the Service Agreement. Unless TalentIn B.V. has agreed otherwise in the Service Agreement, TalentIn's fees may be adjusted, for example, if the Services prove more complex or time consuming than expected.
4. An offered professional fee does not include expenses for TalentIn B.V. and does not include taxes or levies by the authorities. All costs for any third parties engaged will be charged in full to the client.

ARTICLE 7 – TERM OF PAYMENT AND COLLECTION CHARGES

1. All fee notes must be paid within 14 days of the date specified on the invoice, without any deductions or deferment. TalentIn B.V. shall send an invoice once per month which will include an itemization of the work carried out.
2. The client shall notify TalentIn B.V. not later than fourteen (14) days after receipt of an invoice, if any part of such invoice is disputed, stating the argued complaint and the reasons for the dispute. In such event, TalentIn B.V. shall issue a credit invoice for the invoice, a new invoice for the undisputed part of the invoice and a new invoice for the disputed part of the invoice. The client shall pay the invoice for the undisputed part without further delay. The Parties shall meet to discuss the disputed part of the original invoice as soon as possible. If it is established that the dispute was unjustified, the client shall pay the disputed part without further delay after the date of the establishment. In the event that Parties do not reach agreement on the disputed part of the invoice, each Party may invoke the escalation procedure set forth in 16 below.
3. If payment is not received within the period of time specified, the client will be in default without any further notice of default, without a notice of default being required. In case of default, the client owes TalentIn B.V. the statutory commercial interest. The interest on the payable amount is calculated from the moment that the payment is due, until the moment that the payable amount has been paid by the client in full.

4. Any outstanding amounts by the client are immediately payable in the following cases:
 - a. The client fails to pay within the payment term;
 - b. The client is bankrupt or applied for a suspension of payment or any other insolvency procedure;
 - c. The client (company) is dissolved or liquidated;
 - d. The client (private individual) is placed under guardianship or deceased.
5. If in default, the client will be due to TalentIn B.V. all extrajudicial costs as follows: 15% of the amount in default, with a minimum of € 40.00;

ARTICLE 8- DURATION

TalentIn B.V. and the client enter into the contract for an indefinite period of time, unless the parties agree otherwise in writing.

ARTICLE 9 - EXECUTION OF THE ASSIGNMENT

1. TalentIn B.V. shall execute the assignment at the best of its knowledge and abilities and according to the requirements of professional practice.
2. TalentIn B.V. may execute the assignments in different phases and send separate invoices on the different phases.
3. If TalentIn B.V. performs the assignment in different phases, TalentIn B.V. may suspend any activities on the next phase until Client approved the execution of the last phase in writing.
4. The client shall provide TalentIn B.V. with all information or material, required for the execution of the assignment, in a timely matter.

5. If the client does not provide the material or information in time, TalentIn B.V. may suspend the execution of the assignment and charge the additional costs, coming from the delay. TalentIn B.V. is not liable for any damages, resulting from incorrect or incomplete information, provided by the client.

ARTICLE 10 – CLIENT’S RESPONSIBILITIES, ANNOUNCEMENTS

1. The client shall comply with any reasonable instruction from TalentIn B.V. to meet any of the client’s obligations under the Agreement. The client shall further comply with all further reasonable requests of TalentIn B.V. and to provide all information and documentation that is reasonably available to the client and that TalentIn B.V. may request, all to the extent that such requirements and requests are necessary for TalentIn B.V. to comply with its obligations pursuant to this Agreement.
2. In the event Parties differ in opinion whether the client complies with the above, TalentIn B.V. shall initiate the procedure as provided in Clause 22 below. If the outcome of this procedure is that the client did not comply with the above due to which a delay in the performance by TalentIn B.V. could not reasonably be avoided, the relevant timescales may be adjusted accordingly. This Clause will not prejudice the legal rights of TalentIn B.V. in relation to a default, non-performance or negligent act by the client.
3. All public announcements by either Party relating to this Agreement or its subject matter, including but not limited to promotional marketing material shall be coordinated with and approved by Client and TalentIn B.V. prior to release. Such an obligation does not refer to any announcement intended solely for internal distribution by the Parties or any disclosure required by legal, accounting or regulatory requirements. Each Party agrees that it shall not without the other Party’s prior written consent use the name, trade names and/or trademarks of the other Party.

ARTICLE 11 - CHANGES OF THE ASSIGNMENT

1. If it proves to be necessary to change the assignment during the activities in order to guarantee a decent execution of the assignment, TalentIn B.V. shall inform the client and the client shall accept reasonable amendments to the assignment. The agreed amendments are laid down in writing between the parties.
2. If parties agree on altering the assignment, TalentIn B.V. may raise or lower the price. If possible, TalentIn B.V. shall provide a quotation to Client in advance. The execution time may change with a change of the assignment. Client agrees on the possibility to change the assignment, the pricing and the execution time.
3. TalentIn B.V. may refuse a request, made by Client, to change the assignment if changing the assignment could affect the quality or quantity of the activities.

ARTICLE 12 - SUSPENSION, DISSOLUTION

1. TalentIn B.V. may temporarily suspend the execution of the activities if he cannot comply because of *force majeure*.
2. If the execution of the assignment is permanently impossible parties may cancel the assignment for the part that has not been fulfilled.
3. TalentIn B.V. may suspend or cancel the assignment if Client fails to meet its obligations, partially, completely or in time. In such cases, Client shall compensate TalentIn B.V. for damages.

ARTICLE 13 - PREMATURE TERMINATION

1. TalentIn B.V. has the right to terminate the assignment prematurely, observing an notice period of one month.
2. If TalentIn B.V. terminates the assignment prematurely, it shall ensure a handover of the work yet to be performed (if any) to a third party, unless the termination is imputable to the client. If the handover of the activities leads to additional costs for TalentIn B.V., these costs shall be borne by the client. TalentIn B.V. is not liable for any work carried out by this third party nor for any damages arising thereof.
3. TalentIn B.V. may immediately terminate the assignment (and is not liable for any damages doing so) in one of the following events:
 - a. The client fails to pay within the payment term;
 - b. The client is declared bankrupt or applied for suspension of payments, or applied or becomes subject to any other insolvency procedure;
 - c. The client (the company) is dissolved or liquidated;
 - d. The occurrence of circumstances in which the client can no longer freely dispose of his capital.

ARTICLE 14 - FORCE MAJEURE

1. TalentIn B.V. is not obliged to comply in the event of *force majeure*.
2. TalentIn B.V. may suspend the obligations, coming from the assignment, for as long as the force majeure continues.
3. If TalentIn B.V. complied with a part of its obligations, and that part has an independent value, TalentIn B.V. may charge that part to the the client.

ARTICLE 15 - COMPLAINTS

1. The client shall notify TalentIn B.V. in writing of any complaints within two months days after detection (or –on invisible shortcomings– after he could have detected it).
2. A timely notified complaint does not suspend or cancel any payment obligation from the client.
3. If the client does not notify TalentIn B.V. timely, the client is not entitled to any recovery, replacement or compensation.
4. If it is established that the complaint is justified and the notification by the client thereon was timely delivered, TalentIn B.V. shall recover, replace or compensate it’s work within a reasonable term after notification of the shortcoming, in writing from the client.
5. If it is established that a complaint is not justified, the client shall compensate TalentIn B.V. for made expenses (like research costs).

ARTICLE 16 - LIABILITY

1. Any liability of TalentIn B.V. will be limited to the amount paid out under the professional indemnity insurance in the case in question plus any excess to be covered by TalentIn B.V. in the case in question given the conditions of the policy for professional indemnity insurance.
2. If TalentIn B.V.’s professional indemnity insurance does not cover the damages, TalentIn B.V.’s liability is limited to the fee charged to the client for the assignment, subject to a maximum of € 20,000.
3. TalentIn B.V. is not liable for any damages resulting from TalentIn B.V. relying on incorrect or incomplete information provided by the client.
4. The limitations set out in this article do not apply if the damages are the result of a deliberate act or gross negligence.
5. If damage or harm is caused to individuals or property as a result of or when carrying out the work and TalentIn B.V. is liable for the said damage or harm, this liability will be limited to the amount that is paid out under the general liability insurance in the case in question, plus any excess applicable under the insurance.
6. Under no circumstances TalentIn B.V. will be liable for any indirect or consequential loss or damage.
7. Each assignment is performed solely for the benefit of the client. Third parties cannot derive any rights from the contents of such assignment or from the services provided, not even if they can be regarded as direct or indirect stakeholders or interested parties. TalentIn B.V. accepts no liability to third parties for any loss or damage whatsoever in connection with work undertaken on behalf of the client.

ARTICLE 17 - LIMITATION PERIOD

All claims brought by the client and third parties will lapse if they are not submitted in writing and justified to TalentIn B.V. within six months of the date on which the client or third party respectively was aware or could reasonably have been aware of the facts on which it or they based their claims. In all cases, claims or other rights will lapse one year after the date on which the work is carried out by TalentIn B.V.

Article 18 - Indemnification

1. The client will hold harmless and indemnify TalentIn B.V. from any claims by third parties, who suffer damages for and against all claims, liability and legal claims that a third party might have against TalentIn B.V. or against the client, that ensue directly or indirectly from or in relation to the execution of the assignment but cannot be attributed to TalentIn B.V., except where an intentional act or omission or gross negligence of TalentIn B.V. applies.
2. If third parties address TalentIn B.V. to be liable for damages resulting from the execution of the assignment, the client shall support TalentIn B.V. both judicial and extrajudicial and Client shall do what may be expected from him. The client will compensate TalentIn B.V. for all defence costs reasonably incurred by it against claims of this nature.

3. If the client does not provide the support described in paragraph 2, TalentIn B.V. may take the actions it deems required. All expenses and damages made by TalentIn B.V. in this respect shall be borne by the client.

ARTICLE 19 - INTELLECTUAL PROPERTY

1. All the plans, documents, pictures, drawings, programming, creations and related information, made by TalentIn B.V., remain property of TalentIn B.V.. This also applies if related expenses are charged or when these are improved, later on.
2. The client can only copy the aforementioned properties if it is for internal use within the client's company and cannot show the properties to third parties or put the properties at disposal in a different manner than originally intended by TalentIn B.V..
3. The client and TalentIn B.V. shall agree on more detailed arrangements, in separate agreements, on certain licenses, given to the client by TalentIn B.V.. If parties do not agree on further terms concerning the licenses, TalentIn B.V. grants the client a non-transferrable license to use the works, made by TalentIn B.V. (like: software, designs, illustrations or any other creation), for an indefinite period of time.

ARTICLE 20 – NON-RECRUITMENT CLAUSE

1. The client, including its affiliated companies, shall not enter into an agreement of any kind to be active, directly or indirectly, with or without payment for the client with (a) a person that has provided services under the agreement between TalentIn B.V. and the client, , within twelve months after termination of the agreement with TalentIn B.V., or (b) with any person that TalentIn B.V. proposed to the client with the intention to provided services which were however not carried out within twelve months after this proposal, unless TalentIn B.V. expressly agreed to this in writing.
2. TalentIn B.V. shall not enter into an agreement with any employee of the client to be active, directly or indirectly, with or without payment for TalentIn B.V. for the period of the agreement with the client and twelve months after termination thereof, unless the client expressly agrees to this in writing.

ARTICLE 21 – NON-DISCLOSURE

1. Except as otherwise provided hereunder, all confidential information communicated by one Party to the other or obtained by one Party in relation to this Agreement and related to the other Party, shall be kept in confidence and shall be used only for the purpose of this Agreement. No such confidential information, including without limitation the provisions of this Agreement and including any personal data of employees, customers or other relations of either Party, shall be disclosed by the recipient Party, its agents, sub-contractors, vendors or employees without the prior written consent of the other Party except:
 - a. as may be necessary to comply with laws, statutes and regulations, provided that the Party obligated to provide the confidential information shall notify the other Party timely upfront to allow such other Party to take all necessary steps to prevent disclosure; or
 - b. to the extent such confidential information is known to the public otherwise than by a breach of the provisions of this Clause 12; or
 - c. to the extent such confidential information has been in the possession of the recipient Party prior to the disclosure thereof by the disclosing Party as demonstrated by the recipient Party by written evidence; or
 - d. to the extent such confidential information has been received from a third party without a duty of confidence; or
 - e. to the professional advisors of the recipient Party in connection with the interpretation or operation of this Agreement or any dispute arising therefrom provided that the recipient Party has obtained an undertaking in writing from such professional advisors to keep such information confidential and use this only for the purposes of this Agreement.
2. The provisions of this Clause shall survive expiration or termination of this Agreement perpetually regardless of the reason of such termination or expiration.

3. With respect to the confidential information in whatever form, or on whatever kind of data medium, Parties undertake not to keep possession of such Confidential Information any longer than is reasonably necessary for carrying out its obligations under this Agreement and to place such Confidential Information, including any copies which may have been made, at the disposal of the disclosing Party immediately in full performance of the aforesaid obligations, or to destroy such copies (at the option of the disclosing Party);
4. TalentIn B.V. shall ensure that its staff members and the staff members of any third parties (including, without limitation, subcontractors and employees of such subcontractors) working for or engaged by TalentIn B.V. are informed of the confidentiality obligations set forth in this Agreement and that TalentIn B.V. represents and warrants that such persons shall comply with them.

ARTICLE 22 - ESCALATION PROCEDURE

1. With respect to any dispute arising out of or relating to this Agreement, either Party may escalate such dispute in accordance with the following principles:
 - a. The Parties shall discuss the matters and shall strain oneself to find a solution;
 - b. If (a) does not work, the Parties shall designate a professional mediator to find a solution. The Parties commit to strain oneself to reach a solution and shall be transparent in the mediation-process about the facts and interests involved with the matters.
2. If the dispute remains unresolved two (2) months after fase (a) unless the Parties agree otherwise, either Party may submit the dispute to the competent court.
3. Either Party shall at all times be entitled to initiate provisional measures in accordance with the laws of The Netherlands.

ARTICLE 23 – NULLITY

If any part of these conditions is void or voidable, this does not alter the validity of the remainder of these conditions. The invalid or unenforceable part shall be replaced by a provision that most closely follows the content of the invalid provision.

ARTICLE 24 - CONFLICTING PROVISIONS

If any of the provisions from these terms and conditions are in conflict with a provision in a written agreement between TalentIn B.V. and the client, the agreement prevails.

ARTICLE 25 - APPLICABLE LAW, COMPETENT COURT

Dutch law alone will apply to the legal relationship between TalentIn B.V. and its client. Any disputes will be submitted to the competent court in Rotterdam, The Netherlands.

ARTICLE 26 – OTHER PARTIES

The provisions and conditions set out in these General Terms and Conditions have also been formulated and stipulated for and on behalf of the directors of and shareholders in TalentIn B.V. and all persons that are or were employed for TalentIn B.V., whether as an employee, adviser, third-party contractor, or in any other capacity.