

# General Terms & Conditions

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**CORDELLT BV**

## **General Terms and Conditions**

**Cordellt bv**

Van Ogtropweg 28

1965 BA Wijk aan Zee

The Netherlands

Tel. M +31 6 53170943

e-mail: [info@cordellt.nl](mailto:info@cordellt.nl)

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## **General Terms & Conditions for the Supply of Consulting Services**

### **1 INTRODUCTION**

The following General Terms and Conditions form part of all proposal(s) and Contract(s) for the supply of Consulting Services by CORDELLT International, further referred to as CORDELLT, and shall prevail over any and all terms and conditions of Client, unless explicitly otherwise agreed to in writing.

### **2 NOTICE**

Any notice, request, order, statement or other communication required or permitted to be given hereunder shall be in writing and may be given by delivery to an officer of the other party or by mailing the same by first class mail, postage prepaid, addressed to the other party, to the addresses shown on the letter agreement. Notice given by facsimile transmission or telex shall be deemed to have been given on the day of transmittal, if transmitted during normal business hours, or on the next business day if transmitted outside of normal business hours. Notice given by mail shall be deemed to have been given on the fifth business day after mailing.

### **3 TERMS OF PAYMENT**

3.1 All payments shall be made in the designated currency without any set-offs whatsoever. Payments shall be deemed to have been effected when the bank account indicated by CORDELLT has been fully credited. CORDELLT may invoice the Client in accordance with the Schedule of Rates, if any, attached. The Client shall pay CORDELLT for each invoice within the time specified therein, or if no time is specified, within thirty (30) days of the date of the invoice.

3.2 Disputes regarding invoices shall be communicated to CORDELLT in writing at latest 30 days after invoice date. Thereafter, Client's right to dispute the invoice shall be expired. Only the part in dispute shall be withheld by Client. If any item or part of an item of an invoice of CORDELLT is disputed or subject to question by the Client, the payment by the Client of that part of the invoice which is not contested shall not be withheld on those grounds and the provisions of section 3.1 shall apply to such part and also to the disputed or questioned item to the extent that it shall subsequently be agreed or determined to have been due to CORDELLT. The provisions of section 3.1 shall apply to all disputed amounts finally determined payable to CORDELLT.

3.3 In the event any portions of the work are deleted or otherwise not constructed and such deletion is not the fault of CORDELLT, compensation for such portions of the work shall be payable to the extent services shall have been performed on such portions pursuant to this Contract.

3.4 In the event the Client fails to make any payments to CORDELLT when such payments are due pursuant to the provisions of this Contract, interest shall accrue on such late payments from the date due to the date of payment at the then prime rate of CORDELLT's bank plus 3% per annum, or as otherwise agreed in writing, and CORDELLT may suspend the performance of the Services until such payment is received.

### **4. TAXES AND DUTIES**

Any taxes, duties, fees and such like levies by any governmental or local authority outside the country of origin of the Services to be rendered, whether levied against Client or against CORDELLT (including its employees, consultants, agents or subcontractors) shall be borne by Client. If CORDELLT is required to pay any such levies in the first instance, the amount of any such payments shall be promptly reimbursed by Client to CORDELLT, so that CORDELLT will receive the net amount of the Contract price as agreed in the Contract.

### **5. PROPRIETARY INFORMATION AND PATENT INFRINGEMENT**

5.1 All information submitted by CORDELLT verbally, in reports, specifications, drawings, written documentation or in any other form or manner are submitted solely for the use by Client for the purpose envisaged by the proposal, and upon



award of Contract, for the performance of such Contract and shall not be used for any other purpose nor be disclosed to any other party without the prior written consent of CORDELLT and then only subject to a confidentiality restriction. Upon receipt of final payment any reports or deliverables will become the property of the Client whether the work is to be proceeded with or not. The copyright of the Reports shall be and remain with CORDELLT. CORDELLT hereby grants a non-exclusive assignable license under such copyrights to the Client to construct the work. The provisions of this paragraph shall survive the termination or expiration of the proposal, and upon Contract award the termination of the Contract, and shall be deemed accepted if upon receipt of the proposal the same is not returned to and received by CORDELLT within fourteen days after the date it was submitted by CORDELLT.

- 5.2 Notwithstanding anything in this Contract to the contrary, and to the fullest extent permitted by law, Client on behalf of itself and its directors, officers, employees, agents, representatives and/or contractors shall indemnify, defend and hold harmless CORDELLT, its directors, officers, employees, agents, representatives and subcontractors from direct, indirect or consequential losses, claims, expenses or damages of any kind or other costs (including attorneys and court costs and other costs of investigation, defence and consulting) arising in whole or in part out of any breach of this Article by Client or its directors, officers, employees, agents, representatives and/or contractors.

6. **CONFIDENTIAL INFORMATION**

- 6.1 CORDELLT shall not disclose any confidential information of the Client relating to the work communicated to or acquired by CORDELLT in the course of carrying out the Services which if known by others would have a material and adverse affect on the business and operations of the Client. CORDELLT shall use such confidential information only for purposes that relate to the performance of the Services and not for any other purpose without the consent of the Client. Similarly, the Client shall not disclose any confidential information of CORDELLT communicated to or acquired by the Client except as may be required by others who are performing work or services in connection with the work and who have entered into a confidentiality agreement satisfactory to CORDELLT.

- 6.2 Confidential information shall not include any information which:

(a) was at the time of disclosure or thereafter became part of the public domain through no act or omission of CORDELLT or the Client; or

(b) became available to CORDELLT or the Client from a third party who did not acquire such confidential information under an obligation of confidentiality either directly or indirectly from CORDELLT or the Client; or

(c) was known to CORDELLT at the time of disclosure thereof by the Client and vice versa; or

(d) was required to be disclosed by law.

- 6.3 The provisions of this Article 6 shall be in force during the period the Services are being performed and shall remain in force for a period of five years from the substantial completion of the Services.



**7. WARRANTIES**

Subject to the conditions as set out hereafter CORDELLT warrants to Client that any Services will be rendered with due diligence. If any Service fails to meet the warranties as evidenced by Client, CORDELLT shall at its option:

- correct the faulty Service
- negotiate an equitable adjustment in price which however, such shall never exceed the price of the defective Service

Foregoing applies only to failures to meet aforesaid warranties resulting from materials provided, designs stipulated or drawings and specifications submitted by Client. This clause sets forth the sole and exclusive remedies for claims arising from not meeting the warranties.

**8. FORCE MAJEURE**

A party is not liable for non fulfilment of any of its obligations if due to an event beyond such party's reasonable control, whether or not foreseen at Contract award, such as but not restricted to fire, flood, war, riots, epidemic disease, breakdown, disturbance of production or strikes (hereinafter referred to as "an event of force majeure") provided that the party invoking the event of force majeure gives written notice thereof within 15 calendar days from the date of occurrence of the event.

The obligation(s) of the party invoking the event of force majeure is suspended as long as and to the extent that the event of force majeure exists.

Pending resumption of performance by the failing party the other party might suspend its own performance, except for the obligation of the Client to reimburse CORDELLT for services rendered up to and including the date of occurrence of such event. Parties are not entitled to terminate the Contract in case of an event of force majeure except when this event of force majeure continues for more than six months. This termination shall not relieve parties from their obligation to reach financial settlements of the Contract.

**9. SUSPENSION AND TERMINATION**

Client may terminate the Consulting Services at any time and upto its sole discretion subject to payment of fees and expenses incurred upto the time of termination. In case of termination, Client will provide immediate notification to CORDELLT in accordance with article 2 "Notice" of these General Terms & Conditions.

In the event that Client fails to fulfil its substantial obligations, including (without limitation) Client's failure to fulfil its payment obligations, CORDELLT shall have the right to suspend its performance in whole or in part with immediate effect without prior notice being required. All costs and damages resulting from Client's non fulfilment, whether or not CORDELLT elects to suspend, will be borne by Client, in addition to a reasonable extension of time for performance of CORDELLT's obligations. CORDELLT shall resume its activities upon the moment payment of all costs and damages is affected.

CORDELLT is entitled to terminate the Contract if the non fulfilment of Client's obligation(s) is not rectified by Client within 90 days after notice thereof, and at any time without prior notice required in case of bankruptcy or insolvency of Client. Without prejudice to the right of CORDELLT to be indemnified for all damages and costs resulting from the termination, CORDELLT shall receive all payments due until the date of termination.

If Client's financial condition at any time does not justify continuance of the work to be performed by CORDELLT hereunder on the agreed terms of payment, CORDELLT may require full or partial payment in advance.



**10. TOTAL LIABILITIES**

10.1 All terms mentioned in these General Terms and Conditions of Consulting Services are given in lieu of and excluding any and all conditions or warranties whatsoever, either by agreement or law, not expressly set forth in the Contract.

10.2 Notwithstanding and super ceding anything in these terms and conditions to the contrary, the liability of CORDELLT for any loss, damage, cost or expense suffered or incurred by the Client or by any individual, firm, company or other person other than the Client (such individual, firm, company or person being a "Third Party") arising out of or in connection with the performance or non-performance of the Services (such loss, damage, cost or expense being collectively a "Loss") is hereby limited to fifty percent (50%) of the professional fees paid to CORDELLT pursuant to this Contract in the aggregate. Notwithstanding the aforesaid in this section, no limitation shall apply when resulting from gross negligence or wilful misconduct by CORDELLT.

10.2 In no event shall CORDELLT be liable for any Loss which is occasioned by a delay beyond the control of CORDELLT, or for any Loss which in any manner relates to a loss of earnings, profits or products, economic loss, delay, business interruption or which relates to special damages or consequential damages caused in any manner whatsoever, or any other damages which are not direct damages flowing from a breach of CORDELLT's standard of care. CORDELLT shall not be liable for any pre-existing environmental site conditions and any such Loss incurred by CORDELLT shall be to Client's account. Any action or claim by the Client against CORDELLT in contract or in tort in connection with the Services shall be commenced within and not later than twelve (12) months after the date of performance of the Services hereunder.

**11. COMPLETE AGREEMENT; AMENDMENTS/MODIFICATIONS**

This Contract contains the complete agreement between CORDELLT and Client. CORDELLT's liabilities and Client's remedies under this Contract will be considered independently from each and any earlier and/or sequential Contract(s).

All amendments to and/or modifications of the present Contract shall not be binding upon any party unless approved and duly signed by both parties.

If one or more stipulations of these conditions and any Contract of which these conditions form part should be or become invalid, the validity of the remaining provisions shall not be affected thereby. CORDELLT and the Client shall undertake to replace such invalid provision by a valid one set forth in the same spirit as the invalid provision.

**12. DISPUTES AND APPLICABLE LAW**

These conditions and any Contract of which these conditions form part shall be governed, construed and interpreted in accordance with Dutch law. All disputes arising in connection with the Contract shall be submitted exclusively to the Courts of Amsterdam, The Netherlands.

