

KG.txt – General Terms and Conditions

Drafted on 30 November 2016.

General Terms and Conditions of KG.txt, established at Burgemeester Vostersstraat 51, 2377 XH Oude Wetering, The Netherlands, registered with the Chamber of Commerce under number 62218476.

Definitions

In these General Terms and Conditions, the following terms are used as defined below, unless explicitly stated otherwise.

<i>General Terms and Conditions:</i>	The General Terms and Conditions as stated below.
<i>KG.txt:</i>	KG.txt, registered with the Chamber of Commerce under number 62218476.
<i>Service:</i>	All work, of whatever form, that KG.txt carries out for, or for the benefit of, the Client.
<i>Honorarium:</i>	The financial reimbursement that is agreed with the Client for the performance of the assignment.
<i>Assignment:</i>	The contract of instruction to provide services.
<i>Client:</i>	The one who has accepted the validity of these General Terms and Conditions and given instructions for the provision of the Service.
<i>Contract:</i>	Any contract entered into between KG.txt and the Client.

Article 1 Scope

These General Terms and Conditions apply to every quotation and Contract entered into between KG.txt and the Client, unless the parties have departed from the General Terms and Conditions explicitly and in writing.

These General Terms and Conditions are also applicable to contracts with KG.txt for the implementation of which third parties must be involved.

The applicability of any of the Client's purchasing conditions or other general terms and conditions is expressly excluded.

If one or more provisions of these General Terms and Conditions are void or voidable, the other provisions of these General Terms and Conditions remain in effect. In this event, KG.txt and the Client will consult with each other to agree new provisions to replace the void or voided ones.

If KG.txt not always requires the strict compliance with these General terms and Conditions, this will not mean that the provisions of the General terms and Conditions will not apply, or that KG.txt to any degree would lose the right in other cases to demand the strict compliance with these General terms and Conditions.

Departures from the Contract and the General Terms and Conditions are only valid if they are explicitly agreed with KG.txt in writing.

Article 2 Translation

The following terms and conditions are a translation of the term and conditions of KG.txt registered under number 62218476.

The Dutch version of the General Terms and Conditions of KG.txt is the authentic version. The Dutch version of the General Terms and Conditions will take precedence in the event of the explanation or interpretation of the General Terms and Conditions. In the event of a difference in meaning or interpretation between the two versions, the Dutch version of the General Terms and Conditions will prevail.

Article 3 Quotations

Quotations should preferably be made in writing and/or electronic form, unless pressing circumstances make this impossible.

Quotations are valid for one month, unless agreed otherwise.

KG.txt cannot be held to its quotations if the Client, in accordance with the requirements of reasonableness and fairness and generally accepted standards, should have understood that the quotation or an element thereof contains a manifest fault or clerical error.

If the acceptance deviates from the offer included in the quotation, whether or not on points of minor importance, then KG.txt is not bound by this acceptance. The Contract then does not come into being in accordance with this differing acceptance, unless KG.txt indicates otherwise.

A composite quotation does not oblige KG.txt to perform an element of the Assignment for a corresponding part of the stated price.

Quotations do not automatically apply to future orders or reorders.

Article 4 Formation of the contract

The Contract comes into being through the timely acceptance by the Client of KG.txt's quotation.

Article 5 Duration of the contract

The Client and KG.txt may enter into a Contract for the duration of the Assignment, unless the nature of the Contract states otherwise or if parties have agreed otherwise explicitly and in writing.

Article 6 Termination of the contract

KG.txt and the Client can terminate the Contract at any time by mutual consent.

Both KG.txt and Client can terminate the Contract at any time with the observance of a period of notice of one month.

In the event that one of the parties becomes bankrupt, is placed under conservatorship or ceases the business, the other party has the right to end the Contract prematurely without the observance of a notice period.

Article 7 Amendments to the contract

If, during the implementation of the Contract, it becomes apparent that it is necessary to amend or supplement the Contract to ensure its proper implementation, then KG.txt will inform the Client of this as soon as possible. The parties will then amend the Contract in a timely manner and in mutual consultation.

If the parties agree that the Contract will be amended or supplemented, this can influence the time of the completion of the implementation. KG.txt will inform the Client of this as soon as possible.

If the amendment or supplementation of the Contract will have financial, quantitative and/or qualitative consequences, then KG.txt will inform the Client of this in advance.

If a fixed Honorarium and/or fee is agreed, then KG.txt will indicate the extent to which the amendment or supplementation of the Contract will influence the price. In this event KG.txt will attempt, as far as possible, to issue a quotation in advance.

KG.txt may not make any additional charges if the amendment or supplementation is a consequence of circumstances that can be attributed to KG.txt.

Amendments to the Contract originally entered into between the Client and KG.txt are only valid from the time at which these amendments are accepted in writing by both parties by means of a supplementary or amended Contract.

Article 8 Implementation of the contract

KG.txt will implement the Contract to the best of its knowledge and ability, and in accordance with the requirements of good workmanship.

KG.txt is entitled to arrange for certain work to be carried out by third parties. The applicability of article 7:404, 7:407, paragraph 2 and article 7:409 of the Dutch Civil Code is explicitly excluded.

The work will be carried out at KG.txt, unless parties agreed otherwise.

KG.txt is entitled to implement the Contract in phases.

If the Contract is implemented in phases, KG.txt is entitled to invoice and require payment for each implemented element separately. If and for as long as this invoice is not paid by the Client, KG.txt is not obliged to implement the following phase, and is entitled to suspend the contract.

If the Contract is implemented in phases, KG.txt is entitled to suspend the implementation of those elements that belong to the following phase or phases until the Client has approved in writing the results of the preceding phase.

The Client will issue all information or instructions that are necessary for the implementation of the Contract, or which the Client can be reasonably expected to understand are necessary for implementation of the Contract, to KG.txt in a timely manner.

If the above-mentioned information and instructions are not issued, or not issued in a timely manner, then KG.txt is entitled to suspend the implementation of the Contract. The additional expenses that are incurred through the delay will be borne by the Client.

Article 9 Honorarium

The Honorarium will be determined by the actual amount of hours and the usual hourly fee of KG.txt, unless indicated otherwise.

The hourly fee is expressed in euro's, exclusive of VAT and other government levies, unless indicated otherwise.

The hourly fee is exclusive of travel, accommodation, packaging, delivery, transportation costs and administration costs, unless indicated otherwise. KG.txt will receive € 0,35 per kilometer, unless indicated otherwise.

KG.txt will provide a statement of all associated costs, or provide information on the basis of which these costs can be calculated by the Client, in a timely manner before the Contract is entered into.

Article 10 Amendment of honorarium

If KG.txt agrees a fixed Honorarium and/or fee when the Contract is entered into, then KG.txt is entitled to increase this Honorarium or fee, also when the Honorarium or fee is not originally specified as being provisional.

If KG.txt has the intention of amending the Honorarium and/or fee, it will inform the Client of this as soon as possible.

If the increase of the Honorarium or fee takes place within three months of the Contract being entered into, the Client can terminate the Contract by means of a written statement, unless:

- the increase arises from a right of KG.txt or an obligation resting upon KG.txt in accordance with the law;
- the increase is due to a rise in the price of raw materials, wages etc. or on other grounds that could not reasonably have been foreseen when the Contract was entered into;
- KG.txt is still prepared to implement the Contract on the basis of that which was originally agreed;

- stipulated is that the implementation will be carried out more than three months after the Contract was entered into.

The Client is entitled to terminate the Contract if the Honorarium or the fee are increased more than three months after the Contract was entered into, unless it is stipulated in the Contract that the implementation will be carried out more than three months after the Contract was entered into.

KG.txt will inform the Client in the event of the intention to increase the Honorarium or the fee, stating the extent of the increase and the date upon which it will take effect.

Article 11 Implementation periods

The work will be carried out within a period stated by KG.txt.

If a period is agreed or stated for the performance of particular work, then this period is only indicative and is not to be regarded as a strict deadline.

If KG.txt needs information or instructions from the Client that are necessary for the implementation of the Contract, then the implementation period will commence after the Client has provided these to KG.txt.

If an implementation period is exceeded, the Client must issue KG.txt with a written notice of default, whereby KG.txt will be offered a reasonable period to nonetheless implement the Contract.

A notice of default is not necessary if the implementation has become permanently impossible, or it otherwise becomes apparent that KG.txt will not meet its obligations arising from the Contract. If KG.txt does not commence implementation within this period, then the Client is entitled to terminate the Contract without judicial intervention and/or seeking compensation.

Article 12 Payment

Payment will take place by means of transfer to a bank account specified by KG.txt after delivery, in accordance with the period stated in the invoice, unless agreed otherwise.

Payment must be made retrospectively.

Payment afterwards must be made within 14 days of the invoice date, in a manner to be specified by KG.txt and in the currency in which the invoice is issued, unless agreed otherwise.

The Client is not authorised to deduct any amount from the payable amount by reason of a counterclaim made by the Client.

KG.txt is entitled to invoice the Client for work carried out in the period in question. Invoicing will take place after the assignment is accomplished, unless agreed otherwise.

KG.txt and the Client may agree that payment be made in instalments in proportion with the progress of the work. If payment in instalments is agreed, the Client must make payment in accordance with the periods and percentages as established in the Contract.

Objections to the level of the invoice do not have the effect of suspending the payment obligations.

After the expiry of the payment period stated in the invoice date, the Client will be in default by operation of law, without a notice of default. From the moment of default, the Client has to bear an interest on the immediately claimable amount at the rate of 2% per month, unless the statutory interest rate is higher.

In the event of bankruptcy, suspension of payment or placement under conservatorship, the amounts owed to KG.txt and the obligations of the Client towards KG.txt are immediately claimable.

Article 13 Additional work

KG.txt will charge the hourly fee for additional work, unless agreed otherwise. Before KG.txt will start the additional work, KG.txt will inform the Client.

Article 14 Collection costs

If the Client is in default or in breach of the Contract in fulfilling its obligations (in a timely manner) then all reasonable costs incurred to obtain an out-of-court settlement are payable by the Client. The Client is in any event liable to pay the collection costs.

With regard to the extrajudicial (collection) charges, KG.txt is entitled – in departure from article 6:96 paragraph 5 of the Dutch Civil Code and the Payment of Extrajudicial Collection Charges Decree – to a payment of 15% of the total outstanding principal sum, with a minimum of € 90,- for every invoice that is wholly or partly unpaid.

Any reasonable legal costs and execution costs incurred are also payable by the Client.

Article 15 Suspension

If the Client does not fulfil an obligation arising from the Contract, or does not meet it fully or in a timely manner, then KG.txt is entitled to suspend the corresponding obligation. In the event of partial or inadequate fulfilment, suspension is only permitted in so far as this is justified by the shortcoming.

Moreover, KG.txt is entitled to suspend the fulfilment of the obligations if:

- after the Contract is entered into, KG.txt becomes aware of circumstances that give good grounds to fear that the Client will not fulfil its obligations;
- the Client is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of KG.txt.

KG.txt reserves the right to claim compensation.

Article 16 Termination

If the Client does not fulfil an obligation arising from the Contract, or does not meet it fully, in a timely manner or properly, then KG.txt is entitled to terminate the Contract with immediate effect, unless the shortcoming, in view of its limited significance, does not justify the termination.

Moreover, KG.txt is entitled to terminate the Contract with immediate effect if:

- after the Contract is entered into, KG.txt becomes aware of circumstances that give good grounds to fear that the Client will not fulfil its obligations;
- the Client is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- due to a delay on the part of the Client, KG.txt can no longer be required to fulfil the Contract under the originally agreed conditions;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of KG.txt;
- the Client is declared bankrupt, submits an application for a suspension of payment, requests the application of debt rescheduling for natural persons or is served with a writ of sequestration on all or part of its property;
- the Client is placed under conservatorship;
- the Client deceases.

Termination will take place by means of a written declaration, without judicial intervention.

If the Contract is terminated, the Client's debts to KG.txt become immediately due and payable.

If KG.txt terminates the Contract on the above-mentioned grounds, KG.txt is not liable for any costs or compensation.

If the termination is attributable to the Client, the Client is liable for the damage suffered by KG.txt.

Article 17 Force majeure

Breaches may not be attributed to KG.txt or the Client if they are not their fault, or if they are not accountable by law, juristic act, or according to the generally accepted standards. In this case the parties are also not bound to fulfil the obligations arising from the Contract.

In these General Terms and Conditions, the term "force majeure" is defined as – in addition to what is understood in law and jurisprudence in this regard – all external causes, foreseen or unforeseen, upon which KG.txt can exercise no influence and through which KG.txt is not able to fulfil its obligations.

Circumstances regarded as resulting in force majeure include strikes, lockouts, fire, water damage, natural disasters or other external contingencies, mobilisation, war, traffic congestion, blockades, import or export restrictions or other government measures, stagnation or delay in the supply of raw materials or machinery components and lack of labour forces, as well as any circumstances through which normal business operations are impeded, as a result of which the fulfilment of the Contract by KG.txt cannot be reasonably sought by the Client.

KG.txt is also entitled to invoke force majeure if the circumstance that hinders (further) fulfilment of the Contract occurs after KG.txt should have fulfilled its obligations.

In case of force majeure the parties are not obliged to proceed with the Contract, and are not bound to pay any compensation.

During the period that the force majeure continues, both KG.txt and the Client can fully or partly suspend the obligations arising from the Contract. If this period lasts for longer than 2 months, both parties are entitled to terminate the Contract with immediate effect, by means of a written notification, without judicial intervention and without the parties being able to claim any damages.

If the situation of force majeure is of a temporary nature, KG.txt reserves the right to suspend the agreed service for the duration of the situation of force majeure. In the event of permanent force majeure both parties are entitled to terminate the Contract without judicial intervention.

If at the time of the occurrence of force majeure KG.txt has already partly fulfilled, or will fulfil, its obligations arising from the Contract, and independent value accrues to the part fulfilled or to be fulfilled, then KG.txt is entitled to separately invoice the part already fulfilled or to be fulfilled. The Client is bound to pay this invoice as if there were a separate Contract.

Article 18 Guarantee

KG.txt accordingly guarantees that the work carried out by it will conform with the Contract and will be properly carried out with good workmanship and using proper materials.

The guarantee stated in these General Terms and Conditions applies to usage within and outside Europe.

If the Service provided does not conform with the Contract, KG.txt will, after notification of this, provide a replacement or carry out a repair at no charge.

When the guarantee period has expired, all costs of repair or replacement, including administrative and call-out charges, will be borne by the Client.

No form of guarantee covers damage caused by incompetent use or lack of care, or as a result of alterations made by the Client or by third parties, nor does KG.txt provide any guarantee for damage arising as a result of these defects.

The guarantee also becomes inoperative if the defect has arisen through or is a result of circumstances beyond the control of KG.txt. These circumstances include issues with the network connection or the computer.

The texts to be delivered by KG.txt comply with the usual agreements between KG.txt and the Client. Texts are intended for use within the Netherlands. When using the texts outside the Netherlands, the Client must verify that its use is suitable for and meets the conditions set in the other country.

A limited warranty period applies to texts. After delivery and approval the Client has five days to appeal to any imperfections. This warranty covers language and spelling errors, duplicate content and a misinterpretation of the briefing, insofar as the briefing has been prepared correctly by the Client.

Any form of guarantee will lapse if a defect arises as a result of or ensues from improper use thereof or incorrect storage by the Client and / or by third parties when - without the written permission of KG.txt - the Client or third parties have made or attempted to make changes to the texts or if these have been processed. The Client is also not entitled to warranty if the defect arises due to or is the result of circumstances where the Contractor can not influence, including computer failure or the loss of the internet connection.

Article 19 Examination and claims

The Client is obliged to examine the Service at the moment of performance, but in any case within five days after the performance of the Service. The Client must examine whether the quality and quantity of the Service comply with what the parties agreed, at least meet the requirements that are common in trade.

Visible defects and shortcomings have to be reported within five working days after the performance of the Service in writing to KG.txt.

Non-visible defects and shortcomings have to be reported within five working days after its discovery to KG.txt.

The right to (partial) restitution of the price, repair or replacement or compensation lapses, if the defects will not be reported within the prescribed period, unless the nature of the Service states otherwise or from circumstances of the case a broader period arises.

The payment obligation will not be suspended if the Client reports the defect to KG.txt within the prescribed period.

Article 20 Liability

The implementation of the Contract is entirely at the risk and responsibility of the Client. KG.txt is only liable for direct damage that has arisen through wilful recklessness or an intentional act or omission of KG.txt.

The liability of KG.txt is excluded for indirect damage, including in any event consequential damage, loss of profit, lost savings and loss due to business interruption, or immaterial damage to the Client.

KG.txt is not liable for damage, of whatever nature, resulting from KG.txt basing its actions upon inaccurate and/or incomplete information provided by the Client, unless this inaccuracy or incompleteness ought to have been known to KG.txt.

KG.txt cannot be held liable for damage caused by faults in the text and typo's, content of the text, errors and/of imperfections in the text.

The limitations of the liabilities in this article will not apply if the damage is due to an intentional act or recklessness of KG.txt or due to his supervisory subordinates.

If KG.txt is liable for any damage, then the liability of KG.txt is limited to an amount equal to the amount stated in the invoice, or to the amount to which the insurance taken out by KG.txt gives entitlement, with the deduction of the policy excess borne by KG.txt under the terms of the insurance.

The Client must report the damage for which KG.txt can be held liable to KG.txt as soon as possible, but in any event within 10 days of the damage having arisen, on penalty of the forfeiture of any right to compensation for this damage.

Any liability claim against KG.txt lapses within one year of the Client having become aware, or possibly reasonably having become aware, of the harmful event.

Article 21 Indemnity

The Client indemnifies KG.txt against any claims by third parties who suffer damage in connection with the implementation of the Contract which is attributable to the Client.

If KG.txt may be sued for this reason, then the Client is bound to provide KG.txt with both judicial and extrajudicial support. Furthermore, all costs and damage on the part of KG.txt and third parties will be at the expense and risk of the Client.

Article 22 Limitation period

In departure from the legal limitation period, a limitation period of one year applies to all claims against KG.txt and any third parties brought in by KG.txt.

Article 23 Intellectual property

KG.txt reserves the rights and powers accruing to it under the provisions of the Copyright Act and other intellectual property legislation and regulations.

KG.txt reserves the right to utilise the knowledge acquired for the performance of the work and general information for other purposes and other work, in so far as no confidential information is hereby communicated to third parties.

Article 24 Confidentiality

Both KG.txt and the Client are obliged, for the duration of and after the termination of the Contract, to maintain confidentiality regarding all facts and particulars concerning the business which they know or can reasonably suspect are confidential. This duty of confidentiality also includes all details of employees, clients, commissioning bodies and other business contacts which are learned of by reason of the Assignment.

Article 25 Privacy and cookies

KG.txt will store the details and information that the Client provides to KG.txt carefully and confidentially.

KG.txt acts in accordance with the AVG which is effective from May 25, 2018. KG.txt will keep a register of processing activities on the basis of the AVG.

KG.txt may only use the personal details of the Client within the framework of the implementation of its obligation to supply, or of dealing with a complaint.

When visiting her website KG.txt can collect the information on the use of the website of the Client through cookies.

The information that KG.txt collects through cookies can be used for functional and analytical purposes.

KG.txt is not permitted to lend out, hire out or sell the personal details of the Client, or to publicise them in any other manner.

It is not permitted for KG.txt to lend out, rent, sell or in any other way make public the personal data of the Client.

The information that KG.txt collects through cookies may only use this personal data for necessary specific purposes.

KG.txt will not keep the personal data longer than necessary.

The Client is entitled to file a complaint with the Dutch Data Protection Authority regarding his / her personal data. The Dutch Data Protection Authority is obliged to handle this complaint.

If KG.txt is obliged to provide confidential information to third parties by virtue of a legal provision or court decision, and KG.txt cannot claim a legal right of immunity, or such a right recognised or permitted by the competent court in this respect, then KG.txt is not liable to pay compensation or grant indemnification. The Client is also not entitled to terminate the Contract by reason of any damage arising in this way.

The Client agrees that KG.txt may approach the Client for statistical or customer satisfaction research. If the Client does not wish to be approached for research, the Client may make this known.

Article 26 Amendment of the general terms and conditions

KG.txt is entitled to amend the general terms and conditions unilaterally.

Amendments will also apply to Contracts that are already concluded.

KG.txt will inform the Client by e-mail about the amendments.

The amendments to the general terms and conditions will be in force thirty days after the Client is informed of the amendments.

If the Client does not agree with the announced amendments, the Client is entitled to terminate the Contract.

Article 27 Applicable law, disputes

Dutch law is exclusively applicable to all legal relationships to which KG.txt is a party. This also applies if an obligation is wholly or partly fulfilled outside of the Netherlands or if the Client has its place of business outside of the Netherlands.

The applicability of the Vienna Sales Convention (CISG) is excluded.

Disputes between KG.txt and the Client will only be submitted to the competent court in the Netherlands, unless the law mandatorily prescribes otherwise.

Article 28 Location

These General Terms and Conditions are filed at the Chamber of Commerce under number 62218476.