

## **General Terms and Conditions of ICTRecht B.V.**

Version: 1 September 2012

These General Terms and Conditions (the “General Conditions”) govern each Contract with, and performance of work by, ICTRecht. Any terms or conditions stipulated by the Client that differ from, or are not covered by, these General Conditions, will only bind ICTRecht if and insofar as they have been expressly agreed by ICTRecht in writing.

### ***Article 1. Offers and preliminary discussions***

1. Only the Instructions as stipulated in the Offer are binding.
2. An Offer is non-binding, and commits the Client to nothing.
3. Preliminary discussions concerning possible Instructions are non-binding and commit the Client to nothing, provided that such preliminary discussions do not last for more than one hour. If the preliminary discussions last more than one hour, then they shall be regarded as Instructions, and ICTRecht can charge the Client for this time at its hourly rate. If any preliminary discussions include the provision of concrete legal advice, then ICTRecht can again charge the Client for this on the basis of its hourly rate.
4. An Offer remains open for 30 calendar days following the date on which it is sent by ICTRecht.
5. If the Offer specifies a delivery date, such a date is indicative only. ICTRecht is entitled to postpone delivery, without further notice, if the Client fails to accept the Offer within one working day following the date of issue of the Offer, or if other circumstances arise under which ICTRecht cannot reasonably be expected to comply with the delivery date including, but not limited to, any late payment of any part of the agreed price.

### ***Article 2. Acceptance of the Instructions***

1. The Offer is deemed to have been accepted if the Client agrees to the Offer, or if ICTRecht may reasonably interpret the conduct of the Client as (evidence of) consent.
2. ICTRecht reserves the right to terminate any Instructions at any time without payment if new information becomes available that makes it unacceptable for ICTRecht to reasonably (continue to) perform the Instructions according to the agreed Description.
3. After acceptance, the Instructions may only be changed with the consent of ICTRecht.

### **Article 3. Performance of the Instructions**

1. ICTRecht will perform the Instructions to the best of its knowledge and capability in accordance with its professional duty of skill and care.
2. If and insofar as required for the proper performance of the Instructions, ICTRecht is entitled to engage third parties to perform certain work. Any additional costs thereby incurred are payable by the Client subject, of course, to the approval of the Client.
3. The Client must do, and permit to be done, everything that is reasonably necessary and desirable to enable the Instructions to be performed on time and correctly. In particular, the Client must ensure that all information that ICTRecht stipulates is necessary, or that the Client ought reasonably to understand is necessary, for the performance of the Instructions is supplied in good time to ICTRecht. If the information required for the performance of the Instructions is not supplied in good time, the ICTRecht is entitled to suspend performance of the Instructions until such information is supplied.
4. The Client will only use the work provided by ICTRecht in response to the Instructions for the agreed purpose. In particular, the Client may only use the texts drawn up by ICTRecht for the purposes indicated in the Instructions. In the event of any breach of this, ICTRecht is entitled to add a surcharge of 50% to its standard fee in respect of the unauthorized use by the Client of the work supplied in accordance with the Instructions, without prejudice to the right of ICTRecht to claim additional compensation. In such a case, ICTRecht is also entitled to withdraw the user license with respect to the relevant texts.
5. Copyright and other intellectual property rights to all materials developed or supplied by or on behalf of ICTRecht in response to the Instructions including, but not limited to, contracts, licenses, privacy statements, disclaimers, analyses, designs, documents, advice, reports, Offers and materials preparatory thereto belong to ICTRecht and/or its licensors. The Client acquires only the user rights and authorities arising from the scope of the Contract or as are additionally granted.
6. Any complaint about the performance of the Contract and/or an objection to an invoice must be sent to ICTRecht in writing no later than two weeks following the invoice date. Any such complaint or objection does not suspend the obligation to make payment.
7. If the Client fails to respond to the draft version(s) of the Instructions within a reasonable term or within the term specified in the Offer, ICTRecht is entitled to charge for the additional work thereby incurred at its hourly rate.
8. When a Contract ends, or is terminated before completion by the Client, ICTRecht is not obliged to supply any materials or (draft) advice produced up to that date either to the Client or to any other party.

9. The result of the ICTRecht generators depends upon the input from the Client. ICTRecht does not guarantee that the result applies to the situation of the Client.
10. Book 7 Articles 404 and 407(2) of the Dutch Civil Code do not apply to the performance of the Instructions.

#### ***Article 4. Duty of confidentiality***

1. Each Party will treat the information it receives from the other Party before, during and after the performance of the Instructions as confidential, insofar as such information is specified as confidential or if the recipient knows or ought reasonably to suspect it to be of a confidential nature. In any event the Client will treat the content of an Offer as confidential.
2. If in the performance of the Instructions ICTRecht needs to know confidential information then in supplying such information the Client is itself responsible for as far as possible excluding or making illegible any personal data or other confidential information that ICTRecht will not need, and for transferring the confidential information to ICTRecht in a secure manner. This does not affect the obligation of ICTRecht to treat confidential information accordingly and to secure it appropriately.
3. Any duty of confidentiality will lapse as soon as the information is available through public sources. A Party is entitled to provide confidential information to any government institution if it is required to do so by statutory regulation or authorized order. In such a case such Party must notify the other Party of this obligation as soon as possible. The Parties remain bound by the obligations in this article even after the Contract is terminated for whatever reason, and for such length of time as it is reasonable for the Party supplying the information to be able to rely on its confidential nature.

#### ***Article 5. Payment conditions***

1. All prices quoted by ICTRecht are net of VAT, unless the Client is a natural person not acting in the course of a business or profession, in which case the prices are inclusive of VAT.
2. ICTRecht will send the Client an electronic invoice of the sum it owes. The Client agrees to electronic invoicing.
3. ICTRecht is permitted to invoice the Client in advance. This will always be done in the case of a purchase of Package of Hours. ICTRecht is also entitled not to start work until the payment due (or agreed part thereof) has been received by ICTRecht. Any delay in payment hereof may affect the agreed delivery date(s), which will then be at the risk and expense of the Client.



4. The Client authorizes ICTRecht to collect payment for Subscription Services via automatic bank transfer. The Client will supply ICTRecht with its bank account number for such purpose as soon as possible, but in any event on demand by ICTRecht. If the automatic transfer is unsuccessful, ICTRecht is entitled to charge the Client the sum of € 25.00 (twenty-five euros) in respect of administration costs.
5. Invoices sent by ICTRecht must be paid within 14 (fourteen) calendar days after the invoice date.
6. Following delivery of the (first) draft(s) of the Instructions, the Client is liable for the entire or remaining sum quoted in the Offer.
7. In respect of a Package of Hours, the right to receive the hours of work paid for will lapse one year after the date of the contract. ICTRecht has no obligation to perform the work until the amount invoiced has been credited to the bank of ICTRecht.
8. If the Client fails to pay an invoice in full or at all within the payment term, then upon expiry of that payment term the Client is automatically in breach without the need to be served with any notice of default.
9. If payment is not made on time, the Client will be liable to interest at the statutory commercial rate on the outstanding sum as from the first day after the final date for payment, plus a sum of € 12.50 (twelve euros and fifty cents) for administration costs, without the to be served with any notice of default. In such a case the Client will be liable to pay for all judicial and extrajudicial (collection) costs including, but not limited to, the fees of attorneys, bailiffs and debt collection agencies.
10. The claim for payment becomes immediately enforceable if the Client is declared insolvent, applies for a moratorium, or any attachment is secured upon its property, or dies, becomes bankrupt or its business is wound up.
11. If the Client terminates all or any part of the Instructions after accepting them, then ICTRecht is entitled to charge the Client for the entire amount specified in the Offer.

## **Article 6. Subscription Services**

1. If the Instructions cover Subscription Services then these following supplemental provisions will govern such Instructions.
2. A Subscription Service is entered into for a term of twelve months commencing on the date of acceptance of the Contract. The subscription will automatically be renewed for successive terms of twelve months unless the Client gives notice in writing of termination at least one month before the end of any subscription term.
3. The Client will be liable to pay to ICTRecht quarterly in advance the sum due for the Subscription Service in respect of the following quarter. Article 6 will apply by analogy.

4. ICTRecht may refuse to provide advice if the Client requests what ICTRecht regards as an unreasonably large amount of advice within the subscription period.
5. ICTRecht may terminate the supply of advice with immediate effect, and without any obligation to compensate the Client, if it is proved that, or if ICTRecht has reasonable suspicions that, the Client is providing the opportunity for third parties to seek advice from ICTRecht within the framework of the Subscription Service.
6. For the duration of the subscription, ICTRecht is entitled to unilaterally amend the subscription fee once per calendar year. ICTRecht will give written notice to the Client of such intention at least two months in advance. The Client is entitled to terminate the subscription at the time the new fee comes into operation unless the fee does not increase by more than five per cent on an annual basis.

## **Article 7. Courses**

1. If the Instructions include the provision of a Course by ICTRecht then these following supplemental provisions will govern such Instructions.
2. In the case of an Internal Course the Client is responsible for providing the facilities required by ICTRecht, including an adequate space for the Course, computers, beamers, internet connection and refreshments, as well as for dealing with Course registration. In the case of a General Course, ICTRecht will provide the necessary facilities.
3. The Client is entitled to cancel or reschedule the Internal Course up to 14 (fourteen) calendar days before the (first) day of the Course. Any cancellation or rescheduling charges for facilities already booked, including the travel and overnight accommodation costs of the teachers are payable by the Client.
4. Participation in a General Course will depend on the number of registrations on a first come, first served basis. ICTRecht will confirm a registration by email or explain the reason for refusal. If a Client seeks to register after ICTRecht has registered the maximum number of participants on the course, ICTRecht will keep the application for registration and register the Client if any registered participant drops out. ICTRecht will notify the Client in good time of such a situation.
5. ICTRecht is entitled to change the content, location and date/times of any General Course. The Client will be notified of any such changes no later than two weeks before the commencement of the relevant General Course.
6. The Client is entitled to cancel participation in a General Course up to five working days before the (first) day of the Course. In such a case the cost of the registration will be cancelled. If the Client cancels within five working days, it remains liable for the contract price. The Client is entitled to register a substitute participant up to and including the first day of the General Course: this does not count as a cancellation.

## **Article 8. Liability**

1. ICTRecht accepts statutory and contractual obligations to pay compensation only to the extent set out in this article.
2. ICTRecht is only liable to the Client (a) in the event of an attributable breach of the Contract, including an attributable breach of any obligation under a guarantee, but only to the extent of compensation up to the value of the non-performance, or (b) in the event of any unlawful act attributable to ICTRecht which results in loss or physical injury to persons.
3. Any liability of ICTRecht for any other form of loss is excluded, including supplemental compensation of any kind, and compensation for indirect or consequential loss, or for loss of profits or turnover, or for loss caused by delays, loss of data, failure to meet deadlines due to changes in circumstances, loss due to the theft or loss of, or damage to, property during a Course, or loss resulting from information or advice given by ICTRecht the content of which is not expressly covered by the Instructions.
4. The amount of any compensation owed by ICTRecht by virtue of the preceding sections may not exceed the amount paid out by the professional liability insurer of ICTRecht in the relevant case, plus the amount of its excess under such policy. If in any case the insurer does not pay out, then liability for the total loss following from or connected with the contracted work is limited to the amount paid by the Client to ICTRecht for the work to which the loss relates.
5. The liability of ICTRecht for any attributable breach of contract only arises if the Client has without delay served ICTRecht with a notice of breach specifying a reasonable period for remedying the breach, and even after such period ICTRecht remains in attributable breach of its obligations. The notice of breach must specify in as much detail as possible the nature of the breach to enable ICTRecht to respond adequately.
6. The exclusion and limitation of liability as set out in the preceding sections do not apply if and insofar as the loss is caused by the deliberate act or gross negligence on the part of ICTRecht or its management.
7. The Client indemnifies ICTRecht against any third-party claim connected with the performance of the Contract.
8. In the event of force majeure, including interruptions to, or loss of, an internet connection, telecommunications infrastructure or energy supply, or internal riots, mobilisation, war, traffic jams, strikes, lock outs, commercial disruption, sickness of personnel, stoppages in supply, fire, flood, or problems with imports or exports, whereby it would be unreasonable to expect ICTRecht to perform the Instructions, then the performance of the Instructions will be suspended or, if the situation of force majeure continues for a period of more than ninety days, the Contract will be terminated, without either Party thereby incurring any liability to compensate the other.



### ***Article 9. Changes to these General Conditions***

1. ICTRecht reserves the right to change or add to these General Conditions.
2. Any changes will also be binding upon pre-existing Contracts subject to the Client being given 30 days notice of the changes, and only insofar as the relevant Contracts concern the supply of services for a period of twelve months or longer.
3. Within such period ICTRecht will give serious consideration to the objections of the Client and may decide to revoke or amend the changes on the basis of such objections. If ICTRecht rejects an objection, the Client is entitled to terminate the Contract at the end of this notice period.

### ***Article 10. Jurisdiction and disputes***

1. All legal relationships between ICTRecht and the Client are governed by Dutch law.
2. Should any dispute arise concerning the Contract that cannot be settled amicably, then it should be brought before the court with competent jurisdiction in Amsterdam.

### ***Article 11. Other provisions***

1. As an exception to Book 6 Article 225 (2) of the Dutch Civil Code, ICTRecht is not bound by any changes to the Contract made by the Client at the time of acceptance even if such changes only differ on minor points to the Contract as offered by ICTRecht.
2. Where reference is made in these General Conditions to “writing”, this includes electronic communications such as email and fax, provided that the identity of the sender and the authenticity of the communication is sufficiently established. The burden of proving receipt of the electronic communication always lies with the Client.
3. If any provision of the Contract or these General Conditions proves to be void, this will not affect the validity of the Contract or these General Conditions as a whole. In such a situation, ICTRecht and the Client will negotiate a replacement provision that is valid whilst being as close as possible to the intent of the void provision.
4. The Client consents to ICTRecht using its name and logo as part of promotional activities undertaken by ICTRecht.
5. The Client must notify ICTRecht as soon as possible, and in any event on demand by ICTRecht of all relevant changes to its data, such as changes to address or invoicing information.
6. Information stored in the systems of ICTRecht constitutes full proof of the content thereof in the absence of proof to the contrary from the Client.

7. Either Party is only entitled to transfer its rights and obligations under a Contract to a third party with the prior written consent of the other Party. However, ICTRecht may transfer its rights and obligations under a Contract to a parent company, subsidiary, or group company without the consent of the Client.

## **Article 12. Definitions**

1. The terms used with capital letters in these General Conditions, whether in the singular or plural, are defined as follows:
  - a. Subscription Services: service provided on a monthly basis for which the Instructions are already established, except in the case of a tailor-made subscription;
  - b. General Course: a Course provided on the initiative of ICTRecht for more than one Party;
  - c. General Conditions: these General Terms and Conditions;
  - d. Course: a course, workshop, lecture or training provided by or offered on behalf of ICTRecht;
  - e. ICTRecht: ICTRecht B.V., with registered office at Jollemanhof 12, 1019 GW Amsterdam, registered with the Netherlands Chamber of Commerce under number 34216164;
  - f. Internal Course: a Course provided at the request of, at the location of, and tailored to the employees of, the Client;
  - g. Offer: the Offer or invitation to treat drawn up by ICTRecht in which it indicates the nature of the Instructions to be performed, and the payment(s) owed by the Client in respect thereof;
  - h. Instructions: the description of the service agreed between the Parties;
  - i. The Client: the Party that enters into a Contract with ICTRecht;
  - j. Contract: The Contract to perform the Instructions as agreed between the Parties;
  - k. Party: Either ICTRecht or the Client;
  - l. Parties: ICTRecht and the Client;
  - m. Package of Hours: service supplied on an hourly basis for which the Instructions have yet to be drawn up.