



TYPE2SOLUTIONS B.V. TINSTRAAT 47 2984 AN RIDDERKERK

TELEPHONE +31(0)180545151 FAX +31(0)180545150 E-MAIL info@t2s.nl WEB www.t2s.nl

BANK ABN/AMRONR.460696769 IBAN NL73ABNA0460696769 BIC ABNANL2A

BTW NR. NL811413056B01 KvK 24377913

Terms and Conditions

The Terms and Conditions of Type 2 Solutions B.V. are deposited at the Chamber of Commerce of Rotterdam.

1 General Stipulations

1.1 Definitions

1.1.1 The terms set forth here shall have the following meanings:

- **Contractor:** Type 2 Solutions B.V., represented by a duly authorized agent;
- **Client:** the opposite party of Contractor with regard to an Agreement as mentioned in the next article.

1.1.2 Other words or expressions used herein which have a capital initial shall have the meaning indicated on the first page of this Agreement.

1.2 Scope

1.2.1 Unless agreed otherwise, the Terms and Conditions herein pertain to any offer or agreement by or with Contractor as well as to all actions in preparation or execution of the latter.

1.3 Offer and acceptance

1.3.1 Any offer submitted by or on behalf of Contractor shall not be considered a binding agreement as to price, scope, and delivery due dates, and is valid for 30 days.

1.3.2 A binding agreement is considered concluded when Contractor has received and acknowledged such offer, duly signed for approval by the Client.

1.3.3 The Agreement can only be altered or modified by mutual consent of Contractor and the Client. Such alteration and modification shall be done in writing.

1.4 Term and termination

1.4.1 If the agreement is of indefinite duration, each party shall at all times be able to terminate it unilaterally by giving written notice of 2 months. In which case, no compensation shall be due.

1.4.2 Contractor reserves its right to terminate the Agreement immediately and without admonition or legal procedure if the Client commits an act of bankruptcy, presents a petition for its winding-up, or has a receiver, administrator or similar officer appointed over all or part of its assets, or makes an arrangement of composition with its creditors generally. In which case, the Client is not entitled to any compensation.

1.5 Delivery

1.5.1 Delivery dates stated by Contractor are purely indicative and shall not be considered as binding for Contractor. Contractor shall not be considered in default by not meeting such a date.

1.6 Force Majeure

1.6.1 The following circumstances will be considered beyond reasonable control for Contractor:

- *insufficient availability of Consultants involved, for instance due to illness, personal circumstances, strikes, termination of contract, overlap of contractual obligations or freelance contracts;*
- *delay or failure to perform obligation by suppliers.*

1.6.2 If the circumstances above do not persist for a period in excess of 2 months, Contractor shall have the right to postpone execution of the Agreement during the continuation of these circumstances. If circumstances extend beyond a period of two months, either party shall have the right to terminate the Agreement without notice, notwithstanding amounts due by virtue of Services already performed under the Agreement before those circumstances occurred.

1.7 Fees and expenses

1.7.1 If Contractor agreed to a fixed price with the Client, that price will pertain to the Services mentioned in the Agreement only. If the Client requests Contractor to provide any services in addition or modification of the Agreement, hereafter referred to as "Additional Services", and such Additional Services amount to more than 10% of the agreed price, the Client will be charged for Additional Services at an hourly rate to be decided in consultation with the Client.

1.7.2 The following circumstances can engender Additional Services and justify additional charges as described in paragraph 1.6.1. beneath:

- *extension or modification of analyses, requests, or design after approval by the Client;*
- *requests, conditions or expectations of the Client that were not completely or sufficiently clearly communicated to Contractor at the time the Agreement was signed;*

- *faults and deficiencies in products or services of third parties that could not be reasonably anticipated by Contractor and that cannot be influenced by Contractor;*
- *insufficient cooperation of the Client during execution of the Agreement.*

1.7.3 The Client is deemed to consent with the execution of Additional Services if it allowed execution of these Additional Services without indicating that such Additional Services were not wished for.

1.7.4 Services for which no fixed price was agreed upon will be invoiced at an hourly fee stipulated in the Agreement. If no such fee was agreed upon, the calculation will be performed based on Contractor's customary practice.

1.7.5 Contractor shall have the right to increase the agreed price with waiting fees in case it cannot commence to provide its Service at the time agreed for reasons falling under the Client's responsibility.

1.7.6 If the offer stipulates an indicative price, that indicative price represents nothing more than an estimate of the cost, and will not be binding for Contractor.

1.7.7 All prices are quoted without VAT and any other duties that may be levied in connection with the Agreement.

1.7.8 Contractor shall have the right to adjust hourly rates. The Client must be notified at least two months before these adjustments take place. The Client shall always have the right to terminate the Agreement within seven business days of that notification, in which case the Agreement will expire on the day the adjustment takes effect.

1.8 Payment

1.8.1 Contractor will render invoices in respect of the Services monthly.

1.8.2 Contractor shall always have the right to require down payments before starting or continuing to provide Services. Down payments shall be advised on a regular invoice and credited to the total amount due. They shall amount to a maximum of the expected value of Services agreed for a period of two months ahead. If such down payments are not paid, Contractor shall have the right to delay, discontinue or terminate the performance of its Services.

1.8.3 The Client shall pay invoices within 14 days of invoicing. Invoices shall be paid including VAT at the applicable rate, and payments shall be made to the bank account indicated by Contractor. Payments not received by Contractor on or prior to the due date shall be subject to a late payment fee equal to the maximum rate allowed by law. In case Contractor has to resort to a collection agency to collect its claim, the Client will bear all legal and extra-legal fees incurred by Contractor. Extra-legal fees are hereby set to 15% of the amount due accrued with the interest, with a minimum of € 250, VAT not included.

1.8.4 The Client shall communicate objections to the invoices sent by Contractor within 2 weeks after invoice date. Such objections will be communicated in writing. After that period, the Client is deemed to have agreed to the amount invoiced.

1.9 Intellectual property

1.9.1 The intellectual property rights in all programs, materials, specifications, designs, reports and all other documentation (together "Material") will remain vested in the Contractor.

1.9.2 The Client will be granted non-exclusive and nontransferable license to use Material for any purpose whatsoever except sub-licensing, with effect from the date on which payment in full of the Services has been received by Contractor

1.10 Confidentiality

1.10.1 Each party undertakes to keep and treat as confidential and not to disclose to any third party any information relating to the business or trade secrets of the other, or any information that would obviously be considered confidential by the other party.

1.11 Limitations of liability and action

1.11.1 Contractor shall not be liable for any loss or damages originating in the cooperation, services or supplies of third parties, whether the loss or damage appears during the relation with Contractor or not.

1.11.2 Contractor shall not be held responsible for any loss or damages originating in imperfections or defaults of hardware and/or software produced by parties other than Contractor, including package software, software components or runtime facilities produced by third parties and delivered by Contractor

- 1.11.3 Should the liability of Contractor be called upon for damages to the Client, then such damages will be limited to the total amount of fees collected for that Agreement (excluding VAT). In case the Agreement is mainly an agreement of availability, and spans more than 6 months, the fees collected will be defined as the total amount of fees collected in 6 months, excluding VAT. In no event shall Contractor be liable for any other form of damage or loss, including supplementary damage payments of whatsoever form, compensation of indirect or consequential damage, or loss of income.
- 1.11.4 The Client shall warrant that no rights of thirds are violated by its making available of hard-and software, or materials for use, change or improvement. The Client shall also safeguard Contractor for claims based on such violation.
- 1.11.5 Contractor shall not be held responsible for issues arising from illegitimate use of the software it developed, nor will Contractor accept any responsibility for issues caused by changes or additions by third parties to the software it developed.
- 1.11.6 The Client warrants the accurateness and completeness of documents and other materials it provided.
- 1.12 Amendments to Terms and Conditions**
- 1.12.1 Contractor reserves its right to amend the Terms and Conditions.
- 1.12.2 Amendments are applicable retroactively provided a notification period of 30 days has been observed. Notification shall be made in writing.
- 1.12.3 If the Client does not agree with an amendment of the Terms and Conditions, it can terminate the Agreement on the date those amendments take effect.
- 1.13 Disputes and Governing Law**
- 1.13.1 Any provision or part of this Agreement held by a court of competent jurisdiction to be illegal, invalid, or unenforceable shall be severed and the remaining provision shall remain in full force and effect. Contractor and the Client shall convene to issue new provisions in replacement of those invalidated, in an effort to re-state provisions in most of the spirit and scope of the initial provisions.
- 1.13.2 This Agreement and any offers related to it shall solely be governed by the provision of Dutch Law.
- 1.13.3 Both parties agree to submit to the exclusive jurisdiction of the Dutch Courts in Rotterdam for settlement of any claim directly or indirectly related to or in consequence of the Agreement.

2 Software Development

2.1 Scope

2.1.1 The provisions laid out in this section are applicable in addition to the Terms and Conditions if Contractor is instructed to develop software for the Client.

2.2 Software and licensing

2.2.1 The term Software means all instructions, whether only legible by a machine or not, stored on appropriate media, which allow automated equipment to function or to treat data stored in such automated equipment, as well as documentation pertaining to such instructions, including preparatory or descriptive designs.

2.2.2 The Client will be granted a non-exclusive and nontransferable license to use the Software in its own company or organization.

2.2.3 The Software may only be used by the Client on the runtime facilities and for the number and type of users it is licensed for. If no provision of that kind has been made, the license is deemed to have been granted for the number of users for which the Software was initially designed and/or installed for.

2.2.4 The Client shall not be entitled to any other use of the Software, including sub-licensing of the Software to third parties.

2.2.5 If explicitly stipulated in the Agreement, the source code of the Software as well as the technical documentation produced during the development phase of the Software will be made available to the Client, and the Client will be entitled to make amendments to that Software.

2.2.6 Contractor is entitled to take measures to secure the Software. The Client has the obligation of providing access to the Software for that purpose at all times.

2.2.7 The Client agrees to return all copies of the Software in its possession to Contractor as soon as the license granted by Contractor comes to expiration. If both parties agreed that the Client will destroy those copies when the license comes to expiration, the Client will notify Contractor of such action in writing without delay.

2.3 Third-party Software

2.3.1 If and when Contractor makes third-party software available to the Client, the Terms and Conditions of those third parties will apply to the Client if Contractor has informed the Client in writing, with the exception of the provisions defined in these Terms and Conditions. The Client agrees to accept the above third-party conditions, which will be provided to the Client by Contractor at its first request.

2.4 Delivery, advertisement and acceptance testing

2.4.1 Contractor will develop Software according to written specifications

from the Client, and will deliver and install such Software if such installation was agreed to in writing.

2.4.2 The Client agrees to test the Software or have the Software tested as soon after delivery as possible, so that it can verify that the delivered Software satisfies the specifications laid down in the Agreement. In particular, the tests shall verify that the Software fulfills functional specifications agreed upon, regardless whether an acceptance test has already taken place.

2.4.3 If the Software or part of the Software does not fulfill the functional specification agreed upon, which will be referred to later as "Defect", the Client is held to notify Contractor of the Defect ultimately one month after the Software was delivered, at the risk of losing the rights specified in section 2.5. Contractor is deemed to have delivered according to the Agreement if the Client omits to notify Contractor of a Defect within one month.

2.4.4 If an acceptance test has been agreed upon in writing, the test period will last 14 days after delivery, or, if an installation by Contractor was agreed upon in writing, after the installation of the said Software. During the test period, the Client shall not use the Software for production or operational purposes.

2.4.5 If the acceptance test indicates that the Software contains bugs that prevent the acceptance test to be carried on, the Client will notify Contractor in writing about the details of the issues. In such case, the course of the test period will be interrupted until the Software has been adapted to continue testing.

2.4.6 If the acceptance test indicates that the Software contains Defects, the Client will provide Contractor with a detailed test report ultimately on the last day of the agreed testing period. Contractor shall use all reasonable endeavors to correct the Defects described within a reasonable timeframe, notwithstanding the provision set forth in section

2.5 Software Defects

2.5.1 A Defect can only be investigated and corrected by Contractor after a detailed description of the Defect was provided to Contractor according to the procedures communicated to the Client and all information deemed necessary by Contractor on the circumstances in which the Defect manifests itself has been supplied. If no such procedures have been signified to the Client, a written notification is sufficient.

2.5.2 After the test period described in section 2.4.3. has expired, Contractor is not bound to correct possible Defects in the Software, unless a service level agreement comprising such obligation has been signed with the Client.

2.5.3 A Defect can only be corrected if it can be reproduced.

2.5.4 Contractor is entitled to invoice the hours dedicated to investigating and correcting the Defect if:

- further investigation points out that there is no Defect in the Software developed by Contractor; or
- the Defects could have been detected during the acceptance test; or
- the Software has been modified by parties outside Contractor; or
- the Software was incorrectly used, or used unreasonably by the Client; or
- Contractor cannot be held responsible for the Defect because of circumstances such as limitations, defects, or insufficiencies of hard-or software by parties outside Contractor.

2.5.5 Corrupted or lost data shall not be recovered.

2.5.6 Contractor shall not warrant that the Software it develops will function without Defects or interruptions and that all Defects will be corrected.

3 Software Maintenance

3.1.1 The provisions laid out in this section are applicable in addition to the Terms and Conditions if Contractor has signed a maintenance contract or if maintenance is included in the license agreement for the Software.

3.2 Obligations

3.2.1 Contractor shall use all reasonable endeavors to correct Defects in new releases of the Software, regardless of the provisions made in section 2.5. The results will be made available to the Client according to procedures and deadlines communicated to the Client by Contractor, and will depend on the urgency of the situation.

3.2.2 A Defect will be investigated if it occurs in a version of the Software supported by Contractor at that time and if the Client has installed all patches and changes submitted by Contractor in that version.

3.2.3 Contractor shall make a corrected version available to the Client when it is available. Three month after making such corrected version available to the Client, Contractor shall not be obliged to correct possible Defects in the older version and to provide support for the older version. Contractor may require the Client to enter a new Agreement with and pay a fee to Contractor as a condition to making a corrected version of the Software available to the Client.

3.2.4 If the Client has not signed a maintenance agreement with Contractor at the same time it signed the Agreement to make software available, Contractor cannot be obliged to enter a maintenance agreement with the Client at a later stage.